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Benj.ª Summers

No 3 1809

P. R. Summers

1833

ACTS

PASSED AT THE FIRST SESSION

OF THE

SEVENTEENTH GENERAL ASSEMBLY

FOR THE

COMMONWEALTH OF

KENTUCKY

BEGUN AND HELD IN THE CAPITOL IN THE TOWN OF FRANKFORT, ON MONDAY THE12TH DAY OF DECEMBER, 1808, AND OF THE COMMONWEALTH THE SEVENTEENTH.

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ACTS.

CHAP. I.

AN ACT

To direct the Register to suspend the receiving of certain Plats and Certificates for a limited time, and for other purposes.

Approved December 24th, 1808.

Sec. 1. BE *it enacted by the general assembly*, That the register of the land office shall not receive into his office, nor receipt for any plat or plats nor certificate or certificates of surveys, made on any treasury warrant or warrants within the boundary set apart by an act of the legislature of the state of Virginia for the officers and soldiers of the Virginia state and continental lines, nor shall the said register issue any patent upon any plat and certificate of survey which may have been made and received by the register within the boundary aforesaid, and in case it does not appear upon the face of any plat and certificate which may have been received, that the land included therein does not lie within such boundary, that the register is hereby directed not to issue any patent thereon unless affidavit be made by the owner of such lands, that the land in such plat and certificate, does not lie in such boundary aforesaid.

Reg shall not receive plats and certificates.

nor issue patents.

Sec. 2. *And be it further enacted*, That where any certificate of survey on such treasury warrants, shall not be sufficiently clear from the face thereof, that the same is not within the boundary before alluded to, the register shall suspend receiving or receipting for the same pending the continuance of this act.

This act shall continue and be in force from its passage until the twentieth day of January, 1809, and no longer.

Commencement.

CHAP. II.

AN ACT

For the regulation of the town of Columbia in Adair County.

Approved December 27th, 1808.

Preamble.

WHEREAS it is represented to the present general assembly, that there has been no special law passed heretofore for the regulation of the town of Columbia, and that it is necessary some special law be passed for that purpose,

Trustees to be appointed

Sec. 1. *Be it therefore enacted by the general assembly*, That the free male inhabitants of the town of Columbia, who shall possess the qualifications hereinafter mentioned, are hereby authorised and required, to meet at the court-house in the said town of Columbia, on the second Saturday in January in the year 1809, and on the same day in every two years thereafter, and shall elect five trustees for said town, which said trustees so eleted or a majority thereof, shall be sufficient to form a board, and shall be authorised to make any bye-laws for the government and regulation of said town as to them may seem right, not inconsistent with the constitution and laws of this commonwealth.

to meet and make bye-laws.

to impose tax.

Sec. 2. *Be it further enacted*, That the said trustees or a majority of them, shall have full power and authority to impose a tax annually on the real and personal property within the limits of said town, and on the donation land adjoining to said town, not exceeding sixty dollars, as to them shall seem right, for the purpose of keeping in repair the public streets spring, &c. of said town, or for any other purpose which the said trustees or a majority of them shall think proper for the benefit of said town.

to appoint a clerk &c.

Sec. 3. *Be it further enacted*, that the said trustees shall appoint their clerk and any other officer they may think proper, and the said trustees shall have full power, or a majority of them, to inflict a fine not exceeding ten dollars for every breach of their bye-laws, to be sued for and recovered in their name, be-

fore any justice of the peace, and applied to the use of the said town.

Qualification for a trustee.

Sec. 4. *And be it further enacted*, that no person shall be elected a trustee of said town, or qualified to act as such, unless he reside within the limits of said town, or on the donation lands adjoining thereto, and shall be the owner and possessor of real property in said town, or on the donation land, and be above the age of twenty-five years.

Qualification of voters.

Sec. 5. *And be it further enacted*, that no person shall be qualified to vote at the general election for trustees for said town unless they reside in said town or on said donation land, or own real property therein and be above the age of eighteen years.

Trustees to appoint a commissioner.

Sec. 6. *And be it further enacted*, That the board of trustees for said town may at any time they may think proper, appoint some fit person who shall reside in said town, or on the aforesaid donation land, as a commissioner for the purpose of obtaining in such manner as the board may think proper, a list of all such property, as may be subject to taxation by this act in said town or on said donation land; whose duty it shall be to proceed to obtain such list, and shall return the same to the said board in such time and in such manner as the said board shall direct, for the purpose of enabling said trustees to apportion the tax on said town and the aforesaid donation land; the said commissioner shall be allowed such sum per day as the said trustees may deem right, to be paid out of the money to be collected as taxes.

His duty.

Collector to be appointed.

Sec. 7. *And be it further enacted*, that after the said trustees have laid and apportioned the taxes under this act, they shall appoint a collector thereof, whose duty it shall be to collect and account for the same to the trustees within two months after he shall have been furnished with a list of said taxes; and if any person shall fail or refuse to pay the same, the said collector shall make distress and sale of property in the same manner, as collectors of revenue are directed to do; and the said collector shall pay the money so collected to the trustees of said town, and the said collector shall be allowed six per centum on all monies which he shall have to distrain for, and such

His duty.

compensation for the collection of other taxes as the said trustees may think proper to be paid out of said taxes.

Collector to give bond,

Sec. 8. *And be it further enacted*, that the collector shall give bond with security to the said trustees for the due performance of his office, and shall also take the following oath (to wit) "I do solemnly swear (or affirm as the case may be) that I will faithfully and truly collect all taxes put into my hands for collection by the trustees for the town of Columbia, within my power, and will pay all money so collected to said trustees according to law, so help me God," which said oath either of the trustees are authorised to administer.

To take an oath.

Penalty for a failure.

Sec. 9. *And be it further enacted*, that in case the said collector shall fail to pay the money collected by him to the trustees as aforesaid, they may upon giving him ten days previous notice in writing, recover judgment against the said collector and his security in the county court of Adair county, by motion.

Vacancy how filled.

Sec. 10. *And be it further enacted*, that in case a vacancy shall happen in the said board of trustees by death, resignation or otherwise, between the general election for trustees for said town, the remaining trustees or a majority of them shall meet at the court house in said town as soon as convenient, and supply such vacancy; which said trustee or trustees so appointed shall possess the same power and qualification as those elected at the general election, and shall continue in office until the next general election for trustees and no longer.

Duty of trustees.

Sec. 11. *And be it further enacted*, that the said trustees after they are elected shall meet at the court house in said town, on the first Saturday in February, May, August and November annually, and at such other times as they may think proper in every year, as the internal policy of said town may require; and the trustees elected in pursuance of this act shall continue for and during the term of two years from the time of their election.

Sec. 12. *And be it further enacted*, that the said trustees at some one of the meetings in every year shall make such allowance to their clerk, as they may

think proper, to be paid out of any money collected in pursuance of this act.

Clerk to take an oath.

Sec. 13. *And be it further enacted*, that the said clerk shall take an oath before he enters upon the duties of his office to carefully keep and preserve the books and all other papers confided to him by said trustees, and to make true and correct entries of all bye-laws passed by said trustees, which said oath shall be administered by the president of the board.

Trustees to take an oath.

Sec. 14. *And be it further enacted*, that the said trustees shall severally take an oath before he enters upon the duties of his office, well and truly to perform the duties enjoined upon him as trustee, which said oath shall be administered to him by some justice of the peace, and recorded by the clerk of said trustees.

Penalty for non-attendance.

Sec. 15. *And be it further enacted*, that every trustee who shall fail to attend said meetings without a reasonable excuse, shall forfeit and pay for every failure two dollars to be applied to the use of said town, which said excuse shall be adjudged of by the remainder of the trustees, or a majority of them; and in case a fine should be imposed, and the said trustees should fail or refuse to pay it to the collector when demanded, it shall and may be lawful for the remaining trustees to sue for and recover the same before a justice of the peace.

By whom elections to be held.

Sec. 16. *And be it further enacted*, that the first election shall be held by some two justices of the peace of Adair county, which said justices shall be nominated by the county court of Adair county; and every other general election shall be held in like manner.

Continuance of trustees.

Sec. 17. *And be it further enacted*, that in case the said qualified voters or justices shall fail to meet as aforesaid after the first general election, the former trustees shall continue in office until the next general election be held for trustees.

This act shall commence and be in force from and after the passage thereof.

CHAP. III.

AN ACT

To prolong the time for entering land for taxes.

Approved, December 27, 1808.

Be it enacted by the general assembly, that the further time of two years, from the expiration of an act entitled "an act allowing further time to enter land for taxes," approved the 27th December, 1806, shall be and hereby is allowed for entering lands as is provided for in and by the said act.

This act shall commence and be in force from its passage.

CHAP. IV.

AN ACT

To amend an act entitled "an act for the benefit of Daniel Kessler."

Approved, December 27, 1808.

Whereas a law passed February 16th, 1808, authorising Daniel Kessler of the county of Adair to obtain a land warrant from the Register of the land office for any quantity not exceeding two hundred nor less than one hundred acres of vacant and unappropriated land, on the waters of Russel's creek in said county for the purpose of erecting water works; and whereas there is but forty-nine and an half acres of vacant and unappropriated land in said place; therefore,

§ 1. *Be it enacted by the general assembly*, that it shall be lawful for the Register of the land office to issue a land warrant to said Kessler for forty-nine and an half acres of land agreeable to the provisions of the aforesaid recited act.

This act shall be in force from and after the passage thereof.

CHAP. V.

AN ACT

To amend an act for the relief of the heirs of James Bristoe.

Approved, January 3, 1809.

Whereas a mistake took place in an act of the general assembly approved the sixteenth day of February, 1808, and the name of James Bristoe inserted therein in lieu of Benjamin Bristoe, and the number seven hundred and sixty-five in place of seven hundred and sixty-six: For remedy thereof,

§ 1. *Be it enacted by the general assembly*, that the benefits of said act shall be granted to the heirs of Benjamin Bristoe, deceased, and no other; and that the number seven hundred and sixty-five, shall be considered as seven hundred and sixty-six.

This act shall be in force from its passage.

CHAP. VI.

AN ACT

For the relief of certain Sheriffs in this commonwealth.

Approved, January 3, 1809.

Whereas it is represented to the general assembly, that sundry sheriffs have been prevented by unavoidable circumstances from getting their lists of delinquents in revenue due in 1808, certified within the time prescribed by law; and that others by similar circumstances have failed to get their delinquents' lists returned to the Auditor in due time: For remedy whereof,

Be it be it by the general assembly, that the further time of two months from and after the passage of this act shall be allowed to the several sheriffs to get their lists of delinquents certified and transmitted to the Auditor, who is hereby directed to receive and settle the same as if they had been certified and returned

to him in due time, any law to the contrary notwithstanding.

This act shall be in force from its passage.

CHAP. VII.

AN ACT

To repeal so much of the act entitled "an act to improve and keep open the navigation of the Beech Fork of Salt river," as relates to Brashears's creek.

Approved, January 3, 1809.

Be it enacted by the general assembly, that so much of an act entitled 'an act to improve and keep open the navigation of the Beech Fork of Salt river, and other water courses,' passed December 26th, 1805, as relates to the navigation of Brashears' creek, be and the same is hereby repealed.

This act shall commence and be in force from and after the passage thereof.

CHAP. VIII.

AN ACT

Giving further time to pay into the Treasury certain monies without interest.

Approved, January 3, 1809.

Whereas it is represented to the present general assembly, that so much of an act entitled 'an act providing for the payment of the debt due this commonwealth,' passed December, 1806, which provides for the discount of interest in all cases when payment is made according to the provisions thereof, expired on the 27th of this instant; and whereas it is also represented that many of the good people of this commonwealth have been prevented from availing themselves of said act, owing to the late high waters, and are now ready to comply with the before recited act:

§ 1. Be it enacted by the general assembly, that the further time of six days be, and is allowed to the debtors described in the above recited act to make payment as aforesaid, which shall ensure to the benefit of those making payment within the said six days, as effectually as if the said payments respectively had been made within the time prescribed in and by the aforesaid recited act, any law to the contrary notwithstanding.

This act to be in force from its passage.

CHAP. IX.

AN ACT

To amend an act entitled 'an act to amend and reduce into one the several acts concerning the Town of Augusta in Bracken county.

Approved, January 3, 1809.

Preamble.

Whereas it is represented to the present general assembly, that the upper bank of the Ohio, bordering on Water street, in the town of Augusta, in the county of Bracken, is wearing off and encroaching upon said street, to the inconvenience of the citizens of said town; and that if the same is made the property of individuals their interest would induce a remedy for the same: Therefore,

Trustees to lay off lots.

§ 1. Be it enacted by the general assembly, that the trustees of the said town of Augusta be, and they are hereby authorised to lay off by meets and bounds twenty-one lots, each sixty feet in front and forty feet in depth, on the north side of Water street in the town aforesaid, reserving the necessary streets and alleys from the street aforesaid to the river.

Regulations respecting owners of lots.

§. 2. And be it further enacted, that each owner of a lot or lots on the south side of said Water street shall be entitled to a lot on the north side thereof, to be set off to him by said trustees, but said trustees in setting off the lots as aforesaid shall give the preference to those persons who have already built thereon, and in no case shall their buildings be inter-

Duty of trustees.

fered with, provided the person to whom the same is set off shall within two years erect or cause to be erected a sufficient wall of brick, stone or timber, as shall by said trustees be thought best for the preservation of the bank and streets aforesaid the whole length of his lot on the north side of the street aforesaid: and in case such person shall neglect or refuse to do the same within the term aforesaid, then such lot or lots shall be sold for the best price that can be had, and the proceeds thereof applied in such manner as will best prevent encroachments upon the bank and street aforesaid, under the direction of the said trustees, and after the said trustees shall have set off the lots as aforesaid to the several owners of lots adjoining on the south side of said street, then the balance of the said lots shall be sold by them for the use of the proprietor, subject however, to be sold in the same manner that other lots are in case of a failure in erecting the walls aforesaid:

Proviso. Provided that nothing in this act contained shall be construed to derogate from the legal or equitable right of any person whomsoever, except Philip Buckner the present proprietor thereof, and the trustees of the town aforesaid and their successors.

§ 3. Be it further enacted, that whenever the

Trustees further duty. person to whose use any lot is set off as aforesaid, shall erect or cause to be erected such wall pursuant to the direction of the said trustees—then the said trustees are hereby directed to convey the same to such person by deed therein, warranting the same against the claim of themselves and their successors and the said Philip Buckner the present proprietor thereof—and any dwelling or store houses may be erected thereon, by the respective owners of said lots not exceeding one story high from a level with water street aforesaid; but nothing herein contained shall be so construed as to extend to the building of slaughter houses, stables, or buildings for such uses as may be considered pernicious to health.

Trustees how elected § 4. And be it further enacted, that the trustees of said town shall hereafter be elected from the lot

holders therein, and no person except such shall be eligible.

This act to commence and be in force from and after the first day of March next.

CHAP. X.

AN ACT

To authorise the County Court of Nicholas to appoint Trustees of the town of Newtown within said county, and for other purposes.

Approved January 3d, 1809.

WHEREAS it is represented to the present general assembly, that the trustees of Newtown in Nicholas county, have by death removal and resignation vacated their offices, whereby the board of trustees for that town hath become extinct; therefore,

§ 1. Be it enacted by the general assembly, that the county court of Nicholas county be, and the same hereby is authorised on application of the holders of lots in said town to appoint the same number of trustees that were heretofore appointed on the establishment thereof; and the said trustees so appointed shall have the same power and authority that other trustees of towns have, under an act entitled "an act for the establishment of towns."

This act to be in force from its passage.

CHAP. XI.

AN ACT

For the relief of the sheriff of Hopkins County.

Approved, January 16, 1809.

WHEREAS it has been represented to the general assembly, that William R. M'Gary the sheriff of Hopkins county did not receive his commission until the last day of July last past, by reason of which late

appointment he has not been enabled to make his collection of the revenue, and settle with the auditor according to law; in consequence of which the auditor of public accounts in the regular discharge of the duties of his office, has obtained a judgment against the said sheriff for such defalcation at the late term of the general court: And whereas it is deemed reasonable by the general assembly that the said sheriff should have the same time to make his collections as by the operation of the law, in other cases, is allowed to sheriffs in general; and that he ought not to be subjected to damages, interest, cost or inconvenience on account of his not having been commissioned in proper time,

§ 1. Be it therefore enacted by the general assembly, and it is hereby enacted, that the further time of four months shall be allowed to the said William R. M'Gary to make his collection and settle with the auditor of public accounts and pay the money due into the public treasury: And provided he shall discharge the whole of the principal account within that period, he shall be exonerated from the damages, interest and costs thereon accruing, and in the mean time the execution on the judgment which hath been obtained for it shall be suspended, but in case of failure to comply with the provisions of this act the said judgment shall be in as full force and effect as though this act had not been passed.

This act shall commence and be in force from and after the passage thereof.

CHAP. XII.

AN ACT

Authorising the county courts of Bourbon, Franklin, Harrison and Shelby, to lay an additional levy for the year 1809.

Approved, January 16, 1809.

WHEREAS it is represented to the present General Assembly, that the counties of Bourbon, Frank-

lin, Harrison and Shelby, have experienced considerable injury by the loss of bridges, occasioned by the late uncommon swell in the waters—and whereas, it is necessary for public convenience and that of the counties, that those bridges should be rebuilt, and the county courts of said counties not being authorized to lay an additional levy; For remedy whereof,

§ 1. Be it enacted by the General Assembly, that the county courts of Bourbon, Franklin, Harrison and Shelby be, and they are hereby authorised (at their next January, February or March terms) to proceed to lay an additional levy for the purpose of erecting such bridges as may be necessary in said counties—provided that a majority of all the Justices of said counties shall be present and concur therein.

This act shall be in force from and after the passage thereof.

CHAP. XIII.

AN ACT

Fixing the permanent seat of Justice of Warren County on the old public square in the town of Bowling-Green.

Approved, January 16, 1809.

Whereas it is represented to the present General Assembly, from the petitions of a large proportion of the citizens of Warren County, that they are dissatisfied with the situation of the seat of Justice for the said county, as fixed on by the commissioners appointed by an act of the General Assembly, entitled "an act to fix the permanent seat of Justice for Warren County," and pray that the seat of Justice of said county may be removed back on the old public square in the town of Bowling-Green: and whereas it is also represented that the old court-house has been removed from said public square, and that

Williamson Gatewood of said town offers the use of one large room below, and two above in his house adjoining the public square in said town, for the courts of said county to be held in until a court-house is erected on said public square.

§ 1. Be it enacted by the General Assembly, that the seat of justice of said county, shall be, and is hereby permanently fixed on the old public square in the said town of Bowling-Green, and that the circuit courts, county and called courts of said county shall be held in the said house of the said Gatewood in the said town, until a court-house is erected on said public square, and shall be in sufficient readiness for the court: whereupon the county court shall adjourn to the court-house on said old public square in said town of Bowling-Green, and certify the same to the circuit court, who shall thereafter hold their sessions there.

§ 2. Be it further enacted by the General Assembly, that the said act of assembly, entitled "an act to fix the permanent seat of justice for Warren County," or so much thereof as comes within the the purview of this act, shall be, and the same is hereby repealed.

This act shall commence and be in force from and after the passage thereof.

CHAP. XIV.

AN ACT

To amend the act entitled an act to amend the act authorising commissioners to sell part of the land of which John Elliott died seized and possessed.

Approved, January 16, 1809.

Whereas Daniel M'Gary and James Elliott, two of the commissioners appointed by virtue of "an act authorising commissioners to sell part of the estate of which John Elliott died seized and possessed,"

have removed, and having failed to act as commissioners as aforesaid: For remedy whereof,

§ 1. Be it enacted by the General Assembly, that James M'Elhany and William Donaldson, shall be, and they are hereby appointed commissioners in the place and stead of the commissioners so removed, and they are hereby invested with all the power and authority of the former commissioners by virtue of the aforesaid act.

This act to be in force from the passage thereof.

CHAP. XV.

AN ACT

To add part of Ohio county, to the county of Henderson.

Approved, January 16, 1809.

Be it enacted by the General Assembly, that from and after the first day of April next, all that part of Ohio county, comprised within the following bounds, shall be added to and considered as part of the county of Henderson, to wit: beginning on the Ohio at the mouth of Green river and running up the Ohio to where the line of Henderson & co's. grant strikes the same, thence with said line to Green river, thence down the same to the beginning:

And be it further enacted, that the sheriff of the said county of Ohio, may lawfully after the first day of February next, distrain or collect all public dues and officer's fees from the inhabitants residing in the before mentioned boundary, which the said sheriff now, is or may be, before the said first day of April next, bound by law to collect.

This act shall commence and be in force from and after the passage thereof.

CHAP. XVI.

AN ACT

To legalize the proceedings of the Logan and Bracken County Courts.

Approved January 17th, 1809.

WHEREAS it is represented to the present general assembly, that there was not a majority of the county court justices for the county of Logan, present at the laying of their levy for said county, on the second day of the November term, 1808; for remedy whereof,

§ 1. *Be it enacted by the general assembly*, that so much of the proceedings of the said court at the term aforesaid as respects their laying the levy for said county, shall be, and the same is hereby legalized and confirmed, any law to the contrary notwithstanding.

And whereas it is also represented to the present general assembly, that there was not a sufficient number of the justices for Bracken county attended on the first day of the October term, in the year 1807, at the court house of said county to form a court; but that on the second day of said term a sufficient number did attend and proceeded to open court and do business therein, and doubts having arisen as to the legality of such proceedings; for remedy whereof,

§ 2. Be it enacted by the general assembly, that the orders made at the said term of Bracken court, concerning roads and overseers of roads shall be as valid as if a court had been opened on the preceding day.

This act to be in force from the passage.

CHAP. XVII.

AN ACT

For the better regulation of the town of Richmond in Madison County.

Approved January 17th, 1809.

Whereas it is represented to thisgeneral assembly, that the inhabitants of the town of Richmond in the county of Madison, labor under many inconveniences in consequence of the laws regulating towns in this commonwealth having proved ineffectual, and that it is necessary there should be some further regulations for the promotion of said town and the benefit of its inhabitants; therefore, Preamble.

§ 1. Be it enacted by the general assembly, that the trustees of the town of Richmond who are now in office shall continue, and they are hereby declared to be the trustees of said town until the fourth Monday in July next, on which day annually, there shall be an election held at the court house in said town, for the election of trustees, which shall be conducted by the clerk of the trustees then in office, and under their direction, and the said clerk shall give public notice by advertisement at the court house door and other public places in said town one month next preceding the election in each year, and it shall also be the duty of the clerk when the election is closed, to enter on record in the book kept by him for the trustees of said town, the names of those persons duly elected as trustees aforesaid. Trustees appointed.

§ 2. And be it further enacted, that it shall be lawful for all the free male inhabitants living in the said town and limits thereof, who are of the age of twenty one years, and entitled to vote in the election of a representative to the general assembly of Kentucky, to elect and choose annually on the fourth Monday in July, five trustees, which election shall be conducted by the clerk under the direction of the trustees as aforesaid. And the trustees of said town may elect their own clerk, who shall not be removed from office for one year next succeeding his election, unless for im- Who entitled to vote for trustees. Clerk to be elected.

proper conduct in discharging the duties of his office, then, in that case, the trustees as aforesaid may remove him from office and proceed to the choice of another.

Powers of trustees.

The said trustees shall have the power to regulate and repair the streets and highways in said town, to remove nuisances and obstructions therein, at the expence of the party who occasioned them: *Provided* that the party or parties will not remove them on receiving notice from the trustees aforesaid, and when such person or persons fails after having notice given them, to remove such nuisances or obstructions, the trustees shall on failure thereof immediately proceed to have it done, and when done, the trustees of said town may proceed by warrant before some justice of the peace of said county for the recovery of such sum or sums of money as may accrue in the removal of such nuisances or obstructions in said town. And also to impose taxes in any manner they may deem the most equitable, not exceeding the sum of seventy-five pounds annually on the tithables, and property real and personal, within the said town; and also to make such provisions and regulations as they may deem proper for the collecting and accounting for the taxes so imposed, by appointing a collector and directing a distress to be made in like manner as that of collecting the revenue in cases of delinquences, and to make such bye-laws, ordinances and regulations, not contrary to the laws and constitution of this commonwealth, as shall by a majority of them be thought necessary for carrying this act into effect.

Proviso.

Trusteesmay impose taxes

§ 3. And be it further enacted, that no person shall be capable of being elected, or to act as a trustee, who is not a free holder and inhabitant in said town; and no person residing in said town and limits shall be capable of being appointed, or act as a surveyor of any road without the same.

Who eligible to be a trustee.

§ 4. And be it further enacted, that in cases of vacancies that may be occasioned by death disqualification or otherwise the remaining trustees shall as soon as may be, proceed to fill the vacancy from amongst the citizens of said town, who may be qualified as aforesaid; and when a trustee shall cease to be a free holder and inhabitant, or resident of said

How vacancies to be filled.

town, he shall be considered disqualified, and another elected in his stead. Any act coming within the purview of this act shall be and the same is hereby repealed.

This act shall commence and be in force from and after the passage thereof.

CHAP. XVIII.

AN ACT

For the relief of John Upton's heirs.

Approved, January 25, 1809.

Whereas it is represented to the general assembly, by the memorial of the heirs of John Upton, deceased, that the said John Upton in his life time obtained a certificate from the county of Pulaski, for 189 acres of land, under an act entitled "an act for settling and improving the vacant land of this commonwealth," and the said John Upton departed this life without paying any of the state price on said land, leaving some infant heirs, and their being no circuit court in the said county of Pulaski for the space of eighteen months prior to that time, so the heirs aforesaid could not avail themselves of the act of assembly of 1806, so that the land was stricken off to the state on the default of paying the first instalment on said land:

Therefore, Be it enacted by the General Assembly, that the said heirs of John Upton deceased, shall have until the 25th day of December next, to comply with the provisions of the 9th section of the act passed in December in the year 1806, providing for the payment of the debt due this commonwealth for the sale of vacant lands—and if such affidavit as is mentioned in the said 9th section, shall be filed with the auditor on or before the said 25th day of December, it shall be duly noted by the auditor, and thereupon the land claim aforesaid stricken off to the state as aforesaid, shall be reinstated and be considered in the like situation as it would have been in, if the affida-

vit had been filed with the register in due time : *Provided however*, that nothing in this act shall affect the case if it shall appear that the said land was sold to an individual instead of being stricken off to the state.

This act shall be in force from and after its passage.

CHAP. XIX.

AN ACT

Allowing to non-residents whose lands have been stricken off to the state by the register in 1806, *for taxes &c. further time to redeem the same.*

Approved, January 24, 1809.

Be it enacted by the general assembly, that the further time of two years from the passage of this act be allowed to such non-residents, whose lands have been stricken off to the state by the register for the non-payment of the taxes, interest and costs due thereon in the year 1806, to redeem the same under the rules and regulations prescribed in the act entitled " an act providing for the redemption of land sold for taxes," passed in 1806.

This act shall commence and be in force from and after the passage thereof.

CHAP. XX.

AN ACT

For the relief of Silas M'Bee, John Jackson and John Moren.

Approved January 24th, 1809.

Preamble. Whereas it is represented to the general assembly, that Silas M'Bee by his agent paid into the treasury, an instalment through mistake on certificate No. 23,

whereas it should have been paid on certificate No. 3492, in consequence of which, the said M'Bee's land was sold to the state, whereby he was deprived of the benefit of the third section, of the act entitled an act to provide for the payment of the debt due this commonwealth for the sale of vacant land: For remedy whereof,

Silas M'Bee.

§ 1. Be it enacted by the general assembly, that the said Silas M'Bee, shall have the further time of three days from the passage of this act, to pay into the public treasury the full amount of the original state price on certificate No. 3492 as aforesaid, including the instalment paid on No. 23—and the auditor is hereby authorised and requested to issue a quietus on receiving the treasurer's receipt for the same.

Preamble.

§ 2. And whereas it is further represented, that John Jackson obtained a certificate from the commissioners in 1798, for two hundred acres of first rate land No. 2330, and that the said certificate, was obtained through mistake on military land, and afterwards removed and located on land of a very inferior quality—and whereas it is deemed unreasonable, that the said Jackson or his assignee should be compelled to pay more than forty dollars per hundred acres for said removed claim: For remedy whereof,

John Jackson.

§ 3 Be it enacted, that the said John Jackson or his assignee, shall by paying into the public treasury, at the rate of forty dollars per hundred acres, including what may have been paid, agreeably to the requisitions of the act entitled "an act providing for the payment of the debt due this commonwealth for the sale of vacant land," be entitled to the auditor's quietus—whereupon a patent may issue as in other cases.

John More

§ 4. And whereas it is further represented, that John Moren obtained a certificate from the circuit court of Madison county, at their June term 1807, for thirty-nine acres of land—believing that the circuit court was authorised to grant certificates for land, the said Moren caused the said certificate to

be entered with the surveyor, and a survey made thereon, which he returned to the register's office, but the register refused to receive the plat and certificate of survey: For remedy whereof,

Be it enacted, that the register of the land office, is hereby authorised and directed to receive the said plat and certificate as in other cases, and upon the said Moren's obtaining the auditor's quietus therefor to issue a patent thereon according to law.

This act to be in force from and after the passage thereof.

CHAP. XXI.

AN ACT

To legalize the proceedings of the county courts of Floyd and Washington counties.

Approved, January 24, 1809.

Whereas the county court of Floyd, held their court in the third week in April and May last, when by law they ought to have holden the same in the fourth weeks in said months; and the county court of Washington county, held their court on the first Monday in March and May last, instead of the second Monday in said months; and as the proceedings of said courts so improperly held may be deemed void: For remedy whereof,

§ 1. Be it enacted by the General Assembly, that the proceedings of the said courts, held as aforesaid, shall be and the same are hereby legalized, and shall be held and deemed as valid to every intent and purpose, as if the said courts had been held on the days that the law provided—any law to the contrary notwithstanding: Provided however, that nothing in this act shall have effect to legalize any proceedings of said courts, to the prejudice of any person not present at the time of transacting such business in court.

This act to be in force from the passage thereof.

CHAP. XXII.

AN ACT

Allowing John James and others further time to return certain plats and certificates.

Approved, January 25, 1809.

Whereas it is represented to the present General Assembly, that a law passed the last session, allowing John James and others, to locate certain land, for the purpose of erecting Iron-Works, and return plats and certificates for the same within twelve months from and after the passage thereof, and that the said John James and others could not comply with the requisitions of said act.

Therefore, be it enacted by the General Assembly, that the further time of two years be allowed to the said John James and others to return plats and certificates as aforesaid, and the register of the land office is hereby directed to receive such plats and certificates, which shall be valid to all intents and purposes, any law to the contrary notwithstanding.

This act shall commence and be in force from and after the passage thereof.

CHAP. XXIII.

AN ACT

For the relief of Thomas Adams.

Approved January 25, 1809.

Whereas it is represented to the General Assembly, that a certain Thomas Adams a justice of the peace for the county of Hopkins, did celebrate the rites of matrimony between John Dougherty and Susannah Parker of the county aforesaid; that the said Adams was induced to do so, in consequence of there being no minister of the Gospel nor justice of

the peace properly authorised for that purpose in the county: and whereas the said Adams is apprehensive of a prosecution for a violation of the law:

Be it therefore enacted by the general assembly, that the said Adams shall be and he is hereby exonerated from all the pains and penalties inflicted, by law on persons who celebrate the rites of matrimony without being legally authorized to do so.

This act shall commence and be in force from and after its passage.

CHAP. XXIV.

AN ACT

Authorising the county courts in this Commonwealth to establish inspections.

Approved, January 25, 1809.

Be it enacted by the general assembly, that the several county courts within this commonwealth, a majority of all the magistrates in the county being present, shall be and are hereby vested with competent power, to establish within their counties respectively inspections of tobacco, hemp and flour, under the same regulations that are prescribed by the several laws now in force upon that subject within this commonwealth: Provided, that previous to application for such inspection, there shall be public notice of the same one month before, by advertisement at the door of the court-house in the county where such application is intended to be made: Provided, that no inspection shall be established within less than three miles of any inspection previously established on the same side of a river or creek, unless two thirds of all the justices in the county shall concur in the erection of a ware-house within the distance aforesaid.

This act to commence and be in force from its passage.

CHAP. XXV.

AN ACT

For the benefit of the Collector of the Revenue Tax for the County of Muhlenburgh.

Approved January 25th, 1809.

Whereas it is represented to the present general assembly, that the sheriff of Muhlenburgh county failed to give bond and security for the collection of the revenue tax for the year 1808, and the court appointed (at their last May term) Lewis Kincheloe collector of said revenue tax, who gave bond with security according to law for the collection of the same, but owing to his being appointed so late, he has not been able to make his collections and settle with the auditor as the law requires; For remedy whereof,

Be it enacted by the general assembly, that the said collector shall have the further time of four months from and after the passage of this act, to make his collection and settle with the auditor, any law to the contrary notwithstanding.

This act shall be in force from and after the passage thereof.

CHAP. XXVI.

AN ACT

To amend the act entitled "an act to amend the act providing for the debt due this commonwealth for the sale of vacant lands."

Approved January 26th, 1809.

§ 1. Be it enacted by the general assembly, that the sales of land directed to be made by the register of the land office, under the act of assembly passed the twenty seventh of December, one thousand eight hundred and six, the time of which sales was suspended by an act of last session, entitled "an act to sus-

pend the sale of lands for the debt due the state," until the first Monday in June next, that the sales of said land shall be, and the same is hereby suspended until the first Monday in June, one thousand eight hundred and ten, and the auditor shall perform the duties required under the before recited act against the first Monday in June, one thousand eight hundred and ten.

§ 2. Be it further enacted, that the register shall on the first Monday in June one thousand eight hundred and ten, proceed to make sale of the lands upon which any instalment and interest at that time may be due and unpaid, in the same way as he would have been bound to do on the first Monday in June next, had this act not taken effect.

§ 3. Be it further enacted, that the instalment which by the existing law would become due on the first Monday in June next, shall be payable on the first Monday in June one thousand eight hundred and ten, and each other instalment shall be payable annually on the first Monday in June in each year thereafter, till the whole is paid: Provided, however, legal interest shall be paid on the whole amount of the instalment, at the time of paying each several instalments as heretofore.

§ 4. Be it further enacted, that every person indebted to this state, for any land acquired under any law of this Commonwealth, who shall pay into the public treasury, within twelve months from the passage of this act, the whole amount of the state price, or the balance remaining due, part being already paid for said land, shall be entitled to a discount of the interest due and to become due thereon.

§ 5. And be it further enacted, that where any tract of head right land, shall have been struck off to the state, at either of the sales, that the owner or owners of the said claim, shall have the privilege of redeeming the said claim, on or before the first Monday in June one thousand eight hundred and ten, by paying into the public treasury, the whole amount of principal due on the said claim, together with the

costs of sale and redemption, and shall be entitled to a discount of the interest due or to become due thereon.

This law shall commence and be in force from and after its passage.

CHAP. XXVII.

AN ACT

For fixing the permanent seat of justice of Lewis County.

Approved, January 28, 1809.

Whereas it is represented to the present general assembly, that the seat of justice for Lewis county is improperly fixed; For remedy whereof,

§ 1. Be it enacted by the general assembly, that Thomas Slow, John Howison, and Jesse Hard of Mason county, Robert Morrison, James Reed, of Fleming, Thomas Warring, senr. and Charles Lewis, of Greenup, be and they are hereby appointed commissioners, or a majority of them to fix upon and establish a place for a permanent seat of justice in said county of Lewis.

§ 2. Be it further enacted, that said commissioners or a majority of them, after having severally taken an oath before some justice of the peace for said county, that they will well and truly execute the trust confided by this act, without favor, affection or partiality, shall meet at the present place of holding courts in said county, on the third Monday in March next, or any such day thereafter as may best suit, and having so assembled, shall proceed to view so much of said county as in their opinions will be necessary for to form a correct knowledge of the probable population thereof, and such review being made shall proceed to fix upon a place for a permanent seat of justice in said county of Lewis.

§ 3. And be it further enacted, that the said commissioners or a majority of them, having so fixed upon

a spot for such permanent seat of justice, shall make out their report in writing, signed and sealed; therein laying off, by proper meets and bounds, one acre of land, designated for the establishment of public buildings; which report shall be returned to the next county court of said county, to be entered of record therein.

§ 4. And be it further enacted, that the county court of said county, shall immediately thereafter, proceed to contract by purchase, or otherwise, for said acre of land; and as soon as may be, have the necessary public buildings erected thereon, for the use of the county, which shall thereafter, be the permanent seat of justice for said county of Lewis.

§ 5. And be it further enacted, that each of the said commissioners, attending under this act, shall be entitled to two dollars per day, for each day they may be employed in the execution thereof, to be levied and paid out of the next county levy of said county.

This act to commence and be in force from the passage thereof.

CHAP. XXVIII.

AN ACT

To repeal an act making provision for the honorable George Muter, late chief justice of this Commonwealth.

Passed, pursuant to the Constitution, the Governor's objections notwithstanding, January 30, 1809.

Whereas an act entitled an act, making provision for the honorable George Muter, late chief justice of this Commonwealth, passed and was approved on the twenty second day of December, 1806—whereby the said George Muter was, and is authorised to receive from the public treasury annually, during his life, the sum of three hundred dollars, and

it is deemed expedient to repeal the said recited act; therefore,

Be it enacted by the general assembly, that the said recited act be and the same is hereby repealed.

And this act shall be in force from its passage.

CHAP. XXIX.

AN ACT

Allowing additional justices of the peace in certain counties in this Commonwealth.

Approved January 25, 1809.

Whereas it is represented to the general assembly, that there is not a sufficient number of justices in the commission of the peace, in the counties of Estill, Adair, Henderson, Warren, Knox, Garrard, Christian, Lewis, Barren, Logan, Wayne and Hopkins, to transact the business of their respective counties with convenience: For remedy whereof,

Be it enacted by the general assembly, that the county of Estill, shall be entitled to two justices of the peace in addition to the number now allowed by law—

The county of Adair, shall be entitled to two justices of the peace in addition to the number allowed by law—

The county of Henderson, one in addition to the number now allowed by law—

The county of Knox, three in addition to the number now allowed by law—

The county of Warren, three in addition to the number now allowed by law—

The county of Garrard, one in addition to the number now allowed by law—

The county of Christian, two in addition to the number already allowed by law—

The county of Lewis, one in addition to the number already allowed by law—

The county of Barren, two in addition to the number already allowed by law--

The county of Logan, two in addition to the number already allowed by law--

The county of Wayne, one in addition to the number already allowed by law--

The county of Hopkins, one in addition to the number already allowed by law--

This act to be in force from its passage.

CHAP. XXX.

AN ACT

Establishing Academies in the counties of Lewis and Clay.

Approved, January 31, 1809.

Trustees of Lewis Academy.

§ 1. Be it enacted by the general assembly, that Winslow Parker, Robert Robb, Aaron Stratton, William Walker, John Radford, James Barclay and Rowland Thomas, gentlemen shall be, and are hereby constituted a body politic and corporate, to be known by the name of the trustees of the Lewis Academy, and by that name shall have perpetual succession and a common seal, with power to change or alter the same at their pleasure; and as a body corporate, shall be authorised to exercise all the powers and privileges, that are now enjoyed by the trustees of any academy or seminary of learning within this state; and on the death, resignation, or other disqualification of any of the trustees aforesaid or their successors, a majority of the remaining trustees, shall fill such vacancy, and the person so appointed, shall be vested with the same power and authority, as if specially named by this act; and by the name and stile of the trustees of the Lewis Academy, may sue and implead, or be sued and impleaded in any court in law or equity, or before any tribunal having cognizance of the same.

Power and duty.

§ 2. The said trustees and their successors, shall have power in their corporate capacity to purchase, or receive by donation any lands, tenements, hereditaments, monies, rents, goods and chattels, and to hold the same by the name aforesaid, to them and their successors forever, for the use of said Academy, and to sell, alien, or transfer any such lands, goods and chattels, and apply the proceeds thereof to the use and benefit thereof.

May locate lands.

§ 3. The said trustees, shall be entitled to locate, survey and patent, the quantity of six thousand acres of vacant land, on the terms and conditions prescribed in the act entitled "an act to establish and endow certain academies," and the several acts amendatory thereto; and for that purpose, may contract with any person or persons, to locate and have the same surveyed, for which services they are authorized to give and convey to such person or persons, a part of the said lands not exceeding two thousand acres, and may also dispose of one thousand acres, for the purpose of erecting the necessary buildings, and providing books and other apparatus, for the use of the said academy.

Regulations as to meetings and appointment of officers, &c.

§ 4. The person first named herein, or in his absence, or refusal to act, the next shall notify the time and place for the first meeting of the trustees, and on the attendance of a majority thereof, they shall appoint a chairman and clerk, who shall severally take an oath "well and truly to execute the duties of their office," and thereafter the board may be called by the chairman or any two of the trustees. The said trustees shall have power to adjourn from day to day, to make and ordain such bye-laws, rules and ordinances, as they may deem proper, not inconsistent with the laws of this Commonwealth; and moreover, to fix on a proper place for erecting the buildings for the said academy: Provided, that a majority of all the trustees, shall be necessary to attend on the making of any contract, bye-laws, or fixing the permanent seat for the same.

May employ professors.

§ 5. A majority of the said trustees, shall have power to engage and employ a competent number of masters and professors to the said academy, to fix their

salaries and the salary of their clerk, as also the terms of tuition, and on the misconduct of any master, professor or student, may dismiss or expel such master, professor or student from the said academy.

Trustees of Manchester academy.

§ 6. And be it further enacted, that Abner Baker, Daniel Garrard, John Hebberd, James Todd and Beverly Broadis, shall be, and are hereby constituted a body politic and corporate, and known by the name and style of the trustees of the Manchester academy; and the said trustees and their successors, shall possess the same powers, and be governed by the same rules and regulations, that are directed by this act to be observed by the trustees of Lewis academy.

This act shall be in force from and after the passage thereof.

CHAP. XXXI.

AN ACT

Regulating Divorces in this Commonwealth.

Approved January 31st, 1809.

Powers granted to the circuit courts.

§ 1. Be it enacted by the general assembly, that the several circuit courts in this commonwealth shall be and are hereby invested with power and jurisdiction to decree divorces in the manner hereafter

Causes of divorce.

mentioned, in the following cases, that is to say: In favor of a husband, where his wife shall have voluntarily left his bed and board with the intention of abandonment, for the space of three years, or where she shall have abandoned him and lived in adultery with another man or men, or shall have been condemned for a felony in any court of record within the United States: In favor of a wife, where her husband shall have left her, with the intention of abandonment, for the space of two years; or where he shall have abandoned her and lived in adultery with another woman or other women, or shall have

been condemned for a felony in any court of record within the United States, or where his treatment to her is so cruel, barbarous and inhuman as actually to endanger her life.

How application to be made,

§ 2. Be it further enacted, that in the cases before mentioned the party desirous of obtaining a divorce may apply to the circuit court of that county in which he or she resides, by a bill in equity stating, the grounds of the application, on which such proceedings shall be had as are usual in other suits in chancery; except so far as they may be directed to be deviated from by this act; but if any of the aforesaid causes of divorce apply to the complainant, he or she shall be subjected to a dismission of such suit.

Order of publication when non-resident.

§ 3. Be it further enacted, that if the defendant resides not within this commonwealth, and the court are satisfied by disinterested affidavit of his or her absence, they may proceed to order publication as against other absentees, except that the order shall succinctly state the object of the bill.

Answer.

§ 4. Be it further enacted, that upon the appearance of the defendant, he or she in answer without oath, may by general denial controvert the allegations of the bill, and may also alledge any of the aforesaid causes of divorce to apply to the complainant; or if the defendant fail to appear, the suit shall be set down for trial; but the allegations shall not be considered as confessed nor proof dispensed with.

Com's. attos. to oppose granting divorces.

§ 5. Be it further enacted, that it shall be the duty of the several attornies prosecuting for the commonwealth in the circuit courts, respectively to oppose the granting of any divorce not warranted by this act.

Decree.

§ 6. Be it further enacted, that if there shall on hearing appear to be just cause for a divorce within the provisions of this act according to the sound construction thereof, the court shall pronounce a decree declaring the complainant divorced from his or her husband or wife; but such decree shall not operate its operation so as to release the offending party, who shall nevertheless remain subject to all the pains and penalties which the law prescribes against a marriage whilst a former husband or wife is living; nor shall it authorise

the injured party again to contract matrimony within two years from the time of pronouncing such final decree.

Courts to regulate the division of estates.

§ 7. Be it further enacted that the court pronouncing the decree of divorce shall regulate and order the division of the estate real and personal, in such way as to them shall seem just and right, having due regard to each party and the children if any: Provided however, that nothing herein contained shall be construed to authorise the court to compel either of the parties to divest himself or herself of the title to the real estate.

Powers of courts pending suits.

§ 8. And be it further enacted, that pending a suit for a divorce the court may make such temporary orders relative to the property and parties as they shall deem equitable.

This act shall be in force from its passage.

CHAP. XXXII.

AN ACT

To amend the acts establishing the General Court.

Approved, January 31, 1809.

Judges classed.

§ 1. Be it enacted by the general assembly, that for the purpose hereinafter mentioned each circuit judge shall be considered as bearing the number annexed to his district agreeably to the arrangement made by the act passed at the last session of the general assembly; and that it shall be their duty to attend the general court by threes at a term according to the following arrangement, viz. the first three numbers to attend at the next spring term, the next three at the succeeding fall term, and so on in succession combining the last with as many of the first as shall make the required number, three, and so on in rotation forever. And should it so happen that all the three should not attend at a term, or on any day of a term, the business shall not be thereby obstructed,

but such of them as shall attend may form the court and proceed.

§ 2. Be it further enacted, that if any circuit judge shall fail to attend the general court at any term or day thereof when it shall be his duty to attend it, either from the provisions of this or any other law of this commonwealth, or shall fail to attend any circuit court in the district to which he may belong, his salary for that year shall be subject to a deduction of ten dollars per day for every day he shall so absent himself, unless it shall be shewn by affidavit to be filed with the auditor that such absence was occasioned by sickness of himself or dangerous indisposition of his white family, or by his necessary attendance on some other court, or some other unavoidable cause: Provided however, that if a circuit judge shall find it inconvenient to attend at a term of a circuit court or a term of the general court, to which he shall stand appointed, and shall procure the attendance and service of another circuit judge in his stead, it shall be lawful for the procured judge to officiate in the room of the other, and shall exempt such absent judge from a deduction of salary for the term thus supplied, as though he had served in person. And it shall be the duty of each clerk of a circuit court and the clerk of the general court, immediately after each term, to certify to the auditor of public accounts the name of any circuit judge, who shall fail to attend court agreeably to law, either in person or by proxy as aforesaid, together with the time & number of days of such absence, which certificate may be transmitted to the auditor by mail, the postage to be paid by the clerk and to have a credit for such postage in settlement of his accounts with the auditor; and the auditor issuing the warrant next after the receipt of such certificate shall observe and make the deduction pursuant to the provisions aforesaid.

Penalty for non-attendance.

How exonerated.

Proviso.

Clerks to certify to auditor.

§ 3. And be it enacted, that each term of the said general court, may continue until the business before them shall be disposed of; and if on any day or days the court shall not be opened, the term shall not be thereby ended, but when the judge or judges

Term of general court unlimited.

shall attend, he or they may cause the court to be opened, and proceed as though the interruption had not taken place.

Suits may be removed from Federal Court.

§ 4. The general court may hold jurisdiction of, and proceed in any cause which by the consent of the parties shall be removed to it from the circuit court of the United States for the Kentucky district.

This act shall be in force from and after its passage.

CHAP. XXXIII.

AN ACT

For the division of Livingston County.

Approved, January 31, 1809.

Boundary.

§ 1. Be it enacted by the general assembly, that from and after the first day of May next, all that part of the county of Livingston included in the following bounds, to wit: Beginning on the Trade Water river at Owen's ford, running from thence a straight line to the forks of Livingston's creek, next below the Sycamore Lick, thence down the same with its meanders to the mouth thereof, thence south west to the Tennessee state line, thence east with the said line to the line of Christian county, thence with the same to Trade Water river, thence down the same to the beginning, shall be one distinct county, to be called and known by the name of Caldwell.

Name.

When courts to be held.

§ 2. After the said division shall take place, the courts for said county shall be held on the fourth Mondays of every month, except the months in which the circuit courts are held, which circuit court shall be held on the fourth Mondays in May, August and November in every year, and may continue six days each term, if necessary, in such manner as is provided by law in respect to other circuit courts.

When justices to meet

§ 3. The justices of the peace for the said county of Caldwell shall meet at the court-house in Eddyville

on the first court day after the said division shall take place and after having taken the oaths required by the constitution of the United States and of this state, and the sheriff being duly qualified according to law, shall proceed to appoint and qualify a clerk, which several oaths may be administered by either of the justices in the commission of the peace, and by him to the rest of the court.

Seat of justice how fixed.

§ 4. A majority of the justices in the commission of the peace, and the assistant judges of said county, shall concur in fixing the permanent seat of justice for said county, having a due regard to the centre and other conveniences.

Duty of Livingston sheriff.

§ 5. It shall be lawful for the sheriff of the county of Livingston, to collect any officers' fees or public dues, in the manner prescribed by law, which shall remain unpaid, after the time the said county takes place, within the bounds of the county of Caldwell, and shall be accountable for the same, in the same manner as if this law had not taken place.

What jurisdiction retained.

§ 6. The court of Livingston shall have jurisdiction in all matters in law or equity that shall be depending before them at the time of the division, and shall try and determine the same, issue process and award executions thereon.

How county court and sheriff to be governed.

§ 7. Be it further enacted, that the county court and sheriff of the said county of Caldwell shall be governed by the same laws and regulations as other county courts and sheriffs are, relative to elections; and the sheriff of the county of Caldwell and the sheriff of the county of Livingston, shall on the Saturday next after the election, meet at the court-house in Centreville, to compare the polls, and ascertain the persons duly elected; and in making out the certificate of the same, both sheriffs shall fix their signatures thereto.

And whereas it appears to the present general assembly, that from said division of Livingston county as aforesaid, the seat of justice for said county of Livingston is not central nor convenient for said county,

Seat of justice in Liv'n how fixed.

§ 8. Be it enacted by the general assembly, that the justices of the peace and assistant judges for said

county of Livingston shall meet at the court-house in the town of Centerville, on the third Monday in April, and a majority of said justices being present, they shall then proceed to fix the permanent seat of justice for said county of Livingston, in the most suitable and convenient place, paying a just regard to the centre of said county, and said county court for said county, shall thereupon adjourn to said place, so soon as accommodations can be had, then and there fixed upon as aforesaid, for the seat of justice for said county, and shall certify the same to the circuit court of said county; and the county courts, called courts and circuit courts for said county, shall thenceforth hold their sessions at said place fixed upon as aforesaid, and said place so fixed upon as aforesaid, shall to all intents and purposes, be the permanent seat of justice for said county.

This act shall be in force from and after the third Monday in April next.

CHAP. XXXIV.

AN ACT

Concerning the town of Glasgow in the county of Barren.

Approved January 31st, 1809.

Inhabitants of Glasgow to elect five trustees.

§ 1. Be it enacted by the general assembly, that it shall and may be lawful, for the free male inhabitants of the said town, and who shall have attained to the age of twenty one years or upwards, to meet at the court-house in said town, on the first Monday in May next, and on the first Monday in May in each year thereafter, and to elect five trustees for the said town; which trustees, shall possess the qualifications, hereafter mentioned; and a mojority of them, so elected, shall be sufficient to constitute a board, who shall be, and they are hereby authorised, to make such bye-laws, for the government and re-

Majority to constitute a board.

gulation of the said town, as to them, shall seem proper, not inconsistent with the constitution and laws of this Commonwealth. The said trustees, or a majority of them, shall have full power and authority, to impose a tax annually, not exceeding one hundred and fifty dollars, on any property real or personal within the said town, as to them shall seem proper and just, to be by them, appropriated for the purpose of keeping the streets in good repair, within the town aforesaid, in such manner as they may direct.

To make bye laws and impose a tax.

§ 2. And be it further enacted, that no person shall be elected a trustee, or qualified to act as such, unless he shall have attained to the age of twenty one years and shall reside within, and be the fee simple owner of real property in the said town ; and the said trustees, so elected, shall have power to regulate the market of the said town, and to inflict a fine, not exceeding five dollars, for each and every breach of their bye-laws, to be sued for in their names and recovered before any justice of the peace.

Qualifications and powers of trnstees.

§ 3. And be it further enacted, that the first election to be holden on the first Monday in May next at the court-house, for the purpose of electing trustees, under the directions of this act, shall be conducted and holden by two justices of the peace for said county. The said justices, shall have power, to appoint a clerk pro tempore, for the purpose of assisting in said election : And it shall be the duty of the justices, who may hold the said election, within three days thereafter, to deliver or cause to be delivered to each of the trustees, so elected, a certificate of his election, under their hands and seals : And each of the said justices, shall be allowed one dollar per day, during the time they may be engaged in holding the said election, to be paid by the said trustees, out of any money which may be levied and collected under the direction of this act.

First election to be holden by two justices.

To appoint a clerk and deliver accounts to the personns elected

Allowance of justices and how paid

§ 4. And be it further enacted, that the two justices, who hold the said election, shall be appointed by the county court of Barren ; and the said justices, when so appointed, shall give ten days previous

Justices to be appointed by county

court, to give notice of the election and to return the names of trustees

notice of the day of such election, at least at three of the most public places in the said town; and it shall be the duty of the said justices, who may hold the said election, to return to the clerk, to be by them appointed pro tem. the names of the trustees which may be elected, and which shall be by him recorded in a journal, to be provided for that purpose; and the said trustees, before they act as such, shall take an oath, to be administered by any justice of the peace, to discharge the duties of their office as trustees, without favor, partiality or affection.

Trustees to take oath

To meet and appoint a clerk

§ 5. The said trustees, shall on the first Saturday after the said election, meet at the court-house in said town, and at such other times and places, as they may think necessary, for the internal policy of said town: And the said trustees or a majority of them, at their first meeting, shall appoint a clerk, who shall hold his office, until the next annual election, but for good cause may be removed; and the clerk so appointed, before he enters on the duties of his office, shall take an oath, to be administered by either of the trustees, that he will to the best of his skill and ability, make true entries of the proceedings of the said board of trustees, and that he will safely keep the books and papers given him in charge, and shall moreover, acknowledge himself to be responsible to the said board of trustees and their successors, for any neglect or malfeasance in office, and entry thereof, shall be made on the journals of said board; and the clerk of said board, is hereby authorised to administer an oath to any person, who may come before the said board to give testimony, and is hereby, also, authorised to issue a subpoena or subpoenas, on the application of either of the trustees for any witness or witnesses, whose testimony may be deemed necessary in any matter of controversy depending before the said board, which subpoena, may be directed to any sheriff or constable of the county, where such witness may reside, whose duty it shall be, to execute and return the same; and if any witness, so summoned, shall fail to attend the

Clerk to administer oath to witnesses and to issue subpoenas

Duty of sheriff or constable

said board, he or she shall be fined by the said board in any sum not exceeding three dollars, unless good cause shewn for such failure, he or she having been first summoned to shew cause: And if any sheriff or constable, who shall receive any subpoena, shall fail to execute and return the same, he shall be fined in any sum not exceeding fifteen dollars, unless he can shew good cause, why the same was not executed and returned, having been first summoned for that purpose: And the said board, are authorised to make their clerk, such compensation for his services, as they may deem reasonable, to be paid out of any money, which may be collected under this act.

Penalty on witness failing to attend

Penalty on sheriff or constable;

Compensation to clerk.

§ 6. And the said board, at their first meeting, shall cause their clerk, to enter on their journals, the certificate of their election—they shall also, at their first meeting, choose a president from their own body, who shall be styled the president of the board, and shall hold his office, until the end of the next annual election, and a president shall be then chosen at the first meeting after each annual election.

Trustees to cause their cert. to be entered and to choose a president

§ 7. The said board of trustees may, and they are hereby authorised at such time as they may think proper, to appoint a commissioner, for the purpose of obtaining a list of each individual's property both real and personal, within said town and the limits aforesaid; which commissioner, before he enters on the duties of his office, shall take an oath to be administered by some justice of the peace or one of the said trustees, that he will to the best of his skill and ability, without favor, affection, or partiality, discharge the duties enjoined him, that is, that he will immediately and without delay, call on each person, whose property may be subject to taxation under this act, for a written list of his or her property, and such as he or she may superintend for the true owner, which list being read over by the said commissioner, to the person delivering the same, he or she shall make oath or affirmation, to be administered by said commissioner, to the truth of the same; and the said commissioner, shall value the property

to appoint a commissioner.

His duty.

Fine for refusing or giving fraudulent lists.

so listed, and note the valuation thereof, in the said list; and any person or persons, who shall hold property in his, her or their own right, or as agent for another, shall refuse to give a list thereof, or shall give a false or fraudulent list, shall be fined by the said board, in any sum not exceeding ten dollars, to be appropriated in the manner hereafter directed; and said commissioner, shall make a return of the said list of taxable property to the said board, or some member thereof, within three months after his appointment or commission to take such list, under the penalty of twenty-five dollars—Provided, however, that any person, that may think himself agrieved by the valuation of such commissioner, may appeal to the board of trustees at their next meeting, who if they see cause, may reduce such valuation.

Person injured may appeal to the board

§ 8. Any person who shall be guilty of running or racing horses, in or through the streets of the said town, or shooting at a mark or throwing long bullets within said town, shall for every such offence, if a white or free person, be subject to a fine not exceeding two dollars, to be sued for in the name of said trustees, before any justice of the peace, and to be applied as hereafter directed; and if a slave to be whipped at the discretion of any justice of the peace, with any number of lashes not exceeding fifteen.—And in all cases where any fine may be imposed upon any infant or apprentice under this act, for a violation of any of the provisions contained in this section, that the father of such infant, and the master of such apprentice, shall be accountable for such fine, and process may issue against such father or master in the same manner as if either of them had been guilty of the offence.

Penalty for running horses &c

§ 9. And the said trustees when they have laid and assessed the taxes on the property valued as aforesaid, may appoint a collector of the same, whose duty it shall be to collect and account for and pay over the same to the board of trustees within three months after a list thereof shall be put into his hands; deducting therefrom such compensation as the board of trustees shall agree to allow him. And it shall be

Trustees to appoint a collector and his duty

the duty of the clerk to deliver such lists to the collector, and if any person shall refuse or fail to pay his or her part of said tax agreeably to said list, the same being duly demanded; the collector is hereby authorised to seize and sell so much of his, her or their personal property as will be sufficient to pay the tax of such delinquent by him or her due and unpaid: Provided however, that before the said collector shall proceed to the said collection he shall give bond and security to the said trustees to be approved of by the president of the board, in the sum of five hundred dollars conditioned for the due and faithful discharge of the duties of his office; and should the collector fail to comply therewith, and suit shall have been brought thereon, it shall be the duty of the officer executing the writ in such case, to endorse thereon the day or days on which he executed it; and when it shall appear from such endorsement that the writ was executed ten or more days before the return day thereof, the declaration may be filed in court, and judgment may be rendered at the return term; and when such collector and securities or either of them shall appear, they may join issue, otherwise an interlocutory judgment may be entered and a writ of enquiry awarded, which may be executed at that or any subsequent term, and judgment rendered accordingly, which shall have the benefit of the several acts of jeofails.

To give bond and security

Suit may be brought thereon

§ 10. And on the death, resignation or removal of any of said trustees or their successors, the remainder of the said trustees shall have power to appoint other persons to fill such vacancy; and they shall under their hands and seals certify to the county court of Barren the names of the persons by them so appointed, which certificate shall be recorded by the clerk of said court.

Trustees to fill vacancies

§ 11. And the clerk of the board of trustees shall on the order or judgment of the said board collect all fines imposed by this act, the collection of which is not otherwise provided for, and all fines imposed for breaches of the bye-laws of said town. And in the said collection he shall be governed by the same rules

Clerk to collect fines

and regulations under which money is collected by virtue of any writ of fieri facias: Provided nevertheless, that no person on whom a fine shall be imposed under this act shall have a right to replevin. And the said clerk shall pay all sums by him collected to the president of the board at their next meeting after he may have collected the same, and the money so collected shall be appropriated to the use of said town in keeping and repairing the streets and roads within the limits afore-said, and such other regulations as said trustees may deem expedient for the benefit of said town: Provided, however, that nothing herein contained, shall prevent the plaintiffs from proceeding in the ordinary way where they shall deem it expedient.

This act shall commence and be in force from and after the passage thereof.

CHAP. XXXV.

AN ACT

Authorising the trustees of Lexington, to levy and collect money for certain purposes.

Approved, February 1, 1809.

Whereas it is represented to the present general assembly, that the citizens of the town of Lexington, have at considerable expence purchased Fire-engines; that a fire-company has been established, amply provided with utensils for the extinguishing fires; and it appearing that the contingent expenses of repairing, &c. fall exclusively on the members of said company: For remedy whereof,

Be it enacted by the general assembly, that it shall and may be lawful, for the trustees of the town of Lexington annually, to levy and collect from the tithables, and property real and personal within the limits of said town, any sum not exceeding two hun-

dred dollars, in addition to the several sums they are now by law authorized to levy and collect, and under the same rules and regulations, to be applied in the following manner, to wit: in purchasing, repairing, &c. of Fire-engines and other utensils, for the extinguishment of fires; and the said sum of money thus to be levied and collected, shall as soon as it is collected, be paid into the treasury of the Union Fire Company of said town, subject to the orders of the directory of said fire-company, to be applied by them to the uses aforesaid. The trustees of the said town, in regard to the amount hereby directed to be levied and collected, not to exceed the sum aforesaid, shall be governed by the order of the directory of said fire-company.

This act shall commence and be in force from and after its passage.

CHAP. XXXVI.

AN ACT

To repeal so much of every act, as authorizes public remuneration for losses by fire in Ware-houses.

Approved February 1, 1809.

Be it enacted by the general assembly, that the twenty-fourth section of the act, passed February 20, 1798, entitled "an act to amend and reduce the several acts of assembly for the inspection of tobacco into one act," and every other part of the same act, and of every other act or acts, as shall authorize or require the public to pay for losses or injury for ware-houses, or tobacco or other property consumed by fire, or otherwise destroyed or injured in or about warehouses or inspections, shall be and the same is hereby repealed.

This act shall be in force from its passage.

CHAP. XXXVII.

AN ACT

To repeal the acts making compensation for the killing of wolves.

Approved February 1, 1809.

§ 1. Be it enacted by the general assembly, that every act or parts of acts, that heretofore authorised a reward for the killing of wolves, shall be and the same are hereby repealed, any law to the contrary notwithstanding.

This act shall commence and be in force from the passage thereof.

CHAP. XXXVIII.

AN ACT

Authorising Archibald Northcut, to build a dam across Green river.

Approved, February 1, 1809

Preamble

Whereas it is represented to this general assembly, that it would be a great benefit to a number of the citizens of Casey county, to permit a grist-mill to be erected on Green river, near the court-house of said county; and as Archibald Northcut, hath petitioned the legislature, for leave to build a dam across Green river near the court-house aforesaid, for the use of a grist-mill—therefore,

To build mill conditionary

§ 1. Be it enacted by the general assembly, that Archibald Northcut, is hereby authorised to build a dam across Green river, near and above the court-house of Casey county, on conditions, that said dam, shall be built of such a height or on such a plan, that the navigation of said stream, shall not be obstructed thereby.

If navigation injured complain to coun ty court

§ 2. And be it further enacted, that if said dam when built, shall be thought to injure the navigation of said stream, on complaint to the county court of

said county, it shall be the duty of said court, to hear such complaint, on condition, that the owner of said dam, shall have had ten days previous notice in writing, that such complaint would be made; and if it shall appear to said court, that the dam doth injure the navigation of said stream, it shall be the duty of said court, to order and direct the owner or occupier of said mill and dam, to have such dam so altered or taken down, that the navigation of the river, shall not be obstructed by it; and if the owner of such dam, shall not within three months from the time of making such order by the court, have said dam removed or so altered, that the navigation shall not be injured by it, said dam shall be deemed a nuisance and treated accordingly; provided, however that a majority of all the justices of the peace for said county, shall be present when the court shall or may determine, that said dam doth injure the navigation of said river.

Duty of county court

When dam deemed a nuisance

This act shall be in force from its passage.

CHAP. XXXIX.

AN ACT

Concerning the town of Jefferson in the county of Jefferson.

Approved February 1, 1809.

Whereas it is represented to the general assembly, that the inhabitants and proprietors of lots of Jefferson town, in the county of Jefferson, are labouring under certain inconveniences.

§ 1. Be it enacted by the general assembly, that the owners of lots of said town, shall, on the third Saturday in August annually, elect five fit persons as trustees for said town, and establish such rules and regulations respecting the police of said town, as to them seem best; which said trustees when elected, shall possess the same power, and perform the same duties, as the trustees heretofore appointed.

Trustees to be elected

Their powers

To whom return of election made

The return of persons so elected, shall be made to a clerk, to be appointed by the said trustees, and by him recorded in a journal to be provided for that purpose. In all future elections, the election shall

Elections how conducted

be conducted by one or more of the then acting trustees, to be appointed for that purpose, and ten days previous notice thereof, shall be given by the clerk of said board, in the most public places in said town; and the return of persons so elected, shall be made to the Clerk of said board, and by him recorded in

Oath of the trustees

their journal. The said trustees, before they proceed to business, shall take an oath to discharge the duties of their office as trustees, without favour,

By whom administered

affection and partiality; and the clerk of said court, shall have power to administer the oath, as also

Vacancies how filled

oaths to any person or persons, coming before the board under the direction of this act. All vacancies, occasioned by death, resignation or otherwise, of any of the said trustees aforesaid, shall be supplied by an election to be holden as aforesaid, on some day named by the clerk of said board. The said

Clerk to be appointed

board shall appoint a clerk, who shall hold his office, until the next annual election for trustees, but for good cause may be removed; and the clerk so appointed, before he enters on the duties of his office,

His oath

shall take an oath, to be administered by the chairman of said board, that he will to the best of his skill and ability, make true entries of the proceedings of said board, and that he will safely keep the books and papers given him in charge, and shall moreover, acknowledge himself responsible to said board, for any neglect or malfeasance in office; and an entry thereof shall be made on the journal of said board.

Trustees may levy taxes

The said trustees, shall have power to levy and enforce the collection of a tax not exceeding fifty dollars annually, on the tithables and property both real and personal within said town, if they think it necessary, and shall apply the said tax, to such purposes as they shall deem proper for the benefit of said town. The said trustees, when they have laid

Collector to be appointed

and apportioned the tax on the property assessed, shall appoint a collector, whose duty it shall be, to

collect and account for such tax within three months after a list of the same shall be put in his hands, and if any person shall refuse to pay the same, the said collector shall have power to seize and sell so much of his property as will be sufficient to make the tax by him or her due; and the collector shall deliver the money so collected to the trustees, or the person who may be appointed by them to receive, deducting therefrom such compensation for his services, as the said board shall have agreed to pay him: Provided however, that before the said collector shall proceed to business, he shall give bond with sufficient security payable to the trustees in the penalty of one hundred dollars, for the faithful discharge of the duty of his office, and should he fail to comply with the condition of said bond, the county court of Jefferson county, which is hereby specially authorised and empowered, may on application or motion of the clerk of said board, give judgment and award execution against said collector, for such sum or sums with ten per cent damages on the same.

His power and duty.

to give bond and security.

County court of Jefferson may on motion give judgment thereon.

§ 2. Be it further enacted, that whosoever shall be guilty of running or racing horses in the streets, playing or throwing bullets, or shooting at marks within the inlots of said town, such person shall for every such offence, if a free person, forfeit and pay the sum of two dollars, to be sued for and recovered in the same manner as sums of the same amount are now recovered by law; and if a slave, he shall be whipped at discretion of a justice of the peace, on his or her the bare back, not to exceed ten lashes. The trustees shall have power to call on the male tithables of said town for the purpose of working on the streets leading through said town, and for removing nuisances, under the superintendance of a surveyor or overseer to be appointed by said board, whose duty it shall be, when directed by the board, to call upon the said tithables to meet on some day, and at a certain place with tools for the purpose aforesaid, and every such person failing to attend so equipped, or who shall refuse to labor under the direction of said overseer, or to find some person equally able to work in his

Persons running horses &c. how punished.

Tithables to work on streets.

Overseer to be appointed

His duty.

Tithables for their failure to be fined.

room, provided he hath three days notice of the time and place aforesaid, shall pay a sum of one dollar and twenty five cents, to be sued for and applied for the benefit of said town; and the inhabitants of that town shall not be compelled to work on any road more than one mile out of the limits thereof, except on the road leading from said town to Middletown, on which road they shall work under the surveyor, who is appointed by the court of the county, like other tithables. The trustees aforesaid shall have power to make any bye-law or laws, rules and regulations for the opening and clearing of any alley, and for the internal government of said town in general, as they may deem expedient, not inconsistent with the provisions contained in this act, or the constitution or laws of this state or of the United States; and all fines as are pointed out in the provisions of this act shall be sued for in the name of the trustees for the town of Jefferson, under their direction, or the direction of some person appointed for that purpose, and the money recovered thereby shall be applied to such purposes for the benefit of said town, as they shall deem proper.

Exceptions of the inhabitants.

Trustees may make bye-laws.

Fines how recoverable,

how applied.

This act shall commence and be in force from and after the first day of May next.

CHAP. XL.

AN ACT

Directing the president of the Bank of Kentucky annually, to certify to the auditor, the amount of interest on certain redeemed warrants.

Approved, February 1, 1809.

§ 1. Be it enacted by the general assembly, that the president of the Bank of Kentucky, be, and he is hereby required, between the third and tenth days of November annually, to certify to the auditor of public accounts, the amount of monies paid by the treasurer, for interest on warrants redeemed by him

within a year, ending on the said third day of November, from said bank, which certificate, shall be entered with the auditor, to be used if necessary, in the settlement of the treasurer's accounts.

This act shall be in force from and after its passage.

CHAP. XLI.

AN ACT

To amend the several acts concerning the Proceedings in Chancery.

Approved, February 1, 1809.

§ 1. Be it enacted by the general assembly, that so much of every act of assembly, as directs, that chancery causes shall be placed on the court dockett after common law causes, shall be, and the same is hereby repealed.

§ 2. Be it further enacted, that the chancery causes in the circuit courts, shall be docketted for the term generally, without seting them to particular days, and at convenient times throughout the term, the court may act upon them.

This act shall commence and be in force from its passage.

CHAP. XLII.

AN ACT

To amend the Law for the recovery of Debts cognizable before a Justice of the Peace.

Approved, February 1, 1809.

§ 1. Be it enacted by the general assembly, that in trials in cases of debt or account before a justice of the peace, it shall be lawful for the plaintiff to require the defendant to answer on oath to the charge: but if the defendant shall thereupon deny the same, the

Defendant to answer on oath.

plaintiff shall not have judgment unless he shall establish his claim by two or more credible witnesses, or at least by one credible witness with corroborating circumstances;—and wherever the defendant shall allledge matter in evidence of the plaintiff's demand, he may in like manner, and subject to the like rules, require the plaintiff to answer such allegations on oath; and on neglect or refusal to attend, or answer after summons, the justice may use attachment and compulsory proceedings for contempt, so as to procure confessions according to the true intent and meaning hereof.

If denied, plaintiff to prove the same. Plaintiff to answer defendant's declarations on oath.

§ 2. The foregoing provisions shall be observed in the trials of appeals in the county courts; but nothing in this act shall be construed to authorise either party to be sworn unless thereto required by the adverse party.

In cases of appeals to the county court.

This act shall be in force from and after the first day of May next.

CHAP. XLIII.

AN ACT

To incorporate the New-Castle Library Company.

Approved February 1st, 1809.

§ 1. Be it enacted by the general assembly, that William Butler, Rowland Thomas, Isham Henderson, John Stites, jr. Robert Teter, Samuel M'Kinley, William Neal, Thomas S. Wingate, and Joel Jackson, and their successors duly appointed as is hereinafter directed, be and they are hereby constituted a corporation and body politic, to have continuance for ten years, by the style of the trustees of the New-Castle Library Company.

Trustees appointed and incorporated.

Style of the Corporation

§ 2. And be it furthnr enacted, that all sums of money, books, goods or chattels in possession of, or that are now due, by subscription, contract or otherwise, or may hereafter be subscribed for the use of

What vested therein.

Errata—In the above page 5th line from the top, read "avoidance," instead of "evidence."

said company, is hereby vested in said corporation, and that they may receive any gift, grant or bequest of money, books, goods or chattels which are made by any person or persons capable of making said gifts or grants, all which sums of money, goods and chattels, to be laid out in books, maps, charts, &c. for the benefit of said corporation agreeably to the intention of the donors. May receive donations. How disposed of.

§ 3. And be it further enacted, that the said corporation by the style aforesaid, shall be capable in law to sue and be sued, plead and be impleaded, before any court or courts, or before any judge or justice of this commonwealth, or elsewhere, in all manner of suits actions or complaints of any kind whatsoever, in as full and effectual a manner as any other person or persons, corporation or bodies politic may or can do. Legal capacity, powers and privileges.

§ 4. And be it further enacted, that the said corporation shall have power to use a common seal, and the same to brake and renew at pleasure ; to appoint a librarian, secretary and treasurer ; to appoint their duty and fix their compensation ; to remove them from office and appoint others in their place, as often as they think fit ; to make such bye-laws as may be useful to the institution, and the same to alter and abrogate at pleasure ; to fix the price of new shares, and annul contributions ; to fill any vacancy that may happen in their number between two annual meetings ; to levy and collect fines and forfeitures ; and to determine and transact all business appertaining to said corporation or said company, agreeably to the rules, ordinances and bye-laws thereof during their continuance in office. Provided however, that not less than five of the trustees shall be a quorum to do business ; that no bye-laws shall be made repugnant to the laws of this commonwealth. To appoint librarian, &c. To make bye laws To fill vacancies Proviso,

§ 5. And be it further enacted, that there shall be an annual meeting of the members of said company at the library, or other suitable place as the trustees may direct, of which the trustees shall cause at least thirty days notice to be given by advertisements at the doors of the public houses in the town of New-Cas- Place of meeting

tle ; at which time and place the members or such of them as are present, either personally or by proxy, evidenced by the hand-writing of the shareholder, shall elect by ballot nine trustees out of their number to serve for the year next ensuing their election, and until others shall be elected to fill their place, and consent to serve : Provided always, that a majority of the share holders either personally or by proxy, shall be necessary to elect the trustees ; that each shareholder shall be entitled to one vote for each share he may hold, provided the number does not exceed five, and no person shall be entitled to a vote who is in arrears to the said institution either by fine forfeiture or contribution.

To elect successors.

§ 6. And be it further enacted, that the first election for trustees shall be held on the first Saturday in March next, and on the first Saturday in March in every year thereafter, and in case a majority of the members should not appear to choose trustees at the times appointed, the elections shall be held thereafter as the attendance of the majority can be obtained for that purpose, previous notice thereof being given as aforesaid.

Elections when to be held.

§ 7. And be it further enacted, that each shareholder shall be at liberty to transfer or relinquish his share or shares, and shall be forever thereafter released from all contributions on account thereof.

This act shall be in force from and after its passage.

CHAP. XLIV.

AN ACT

To legalize the proceedings of the county court of Pendleton at their December term, 1808, *and authorising the county court of Knox to appoint commissioners.*

Approved, February 1, 1809.

Whereas it is represented to the present general assembly, that a majority of the justices of the county court of Pendleton, failed to attend agreeable to

law, to lay their county levy in the year 1803: For remedy whereof,

§ 1. Be it enacted by the general assembly, that so much of the proceedings of the said court, at their December term in the year 1803, as respects their receiving claims against the said county, and laying their county levy, shall be, and the same is hereby legalized and confirmed.

And whereas it is represented, that the county court of Knox, have omitted to appoint commissioners of the revenue within the time prescribed by law; For remedy whereof, It shall be the duty of the county court of Knox, at their March term, to appoint a commissioner or commissioners of the revenue, and such appointments, shall be as good, and valid as if such appointments had been made in due time, any law to the contrary notwithstanding.

CHAP. XLV.

AN ACT

For the relief of Ephraim Dicken and James Kincaid assignee, &c.

Approved February 1, 1809.

Whereas it is represented to the present general assembly, that Ephraim Dicken, did on the 24th of October 1807, pay the first instalment on a tract of two hundred acres of land, No. 1257; which through mistake was afterwards sold, and patented to George Greer, who has since received the amount so paid, from the treasury; the said Ephraim Dicken having also obtained a *quietus*, for the amount due on the said tract.

And whereas, James Kincaid, assignee of Matthew Montgomery, did on the 17th of November 1807, pay the amount on a claim of one hundred acres of land, No. 1261, which was nevertheless, sold and patented to George Greer, who has since receiv-

ed the amount by him so paid, from the treasury; wherefore,

§ 1. Be it enacted by the general assembly, that it shall and may be lawful for the register of the land office, and he is hereby directed to issue patents to Ephraim Dicken and James Kincaid assignee of Matthew Montgomery, for the tracts of land aforesaid, upon their severally producing the auditor's *quietus* as aforesaid.

§ 2. And be it further enacted, that the patents, which have so issued to and in the name of George Greer on said certificates, are hereby deemed null and void; and the register is hereby directed to make a note in the margin of his record book to that effect.

This act shall commence and be in force from and after the passage.

CHAP. XLVI.

AN ACT

To repeal so much of the act concerning tithables as subjects white male tithables over the age of 16 *and under twenty one years to the payment of county levy.*

Approved February 1, 1809.

Be it enacted by the general assembly, that so much of all laws as subjects white males over the age of sixteen and under the age of twenty one years, to the payment of county levy, shall be, and the same is hereby repealed: Provided however, that this act is not to effect any county levy laid before this act shall be in force.

This act to be in force from the first day of May next.

CHAP. XLVII.

AN ACT

To repeal so much of every act as declares Eagle creek a navigable stream.

Approved, February 1, 1809

Be it enacted by the general assembly, that from and after the passage of this act, so much of every act as declares any part of Eagle creek to be a navigable stream and public highway, shall be and the same is hereby repealed.

This act shall commence and be in force from and after its passage.

CHAP. XLVIII.

AN ACT

Requiring the Register to pay into the treasury quarterly certain monies.

Approved, February 1, 1809.

Be it enacted by the general assembly, that from and after the passage of this act, the register of the land office shall pay into the treasury quarterly, the monies due this commonwealth, arising from the fees of his office ; any law to the contrary notwithstanding.

This act shall commence and be in force from and after the passage thereof.

CHAP. XLIX.

AN ACT

To repeal the provisionary clause of the act establishing the county of Harrison.

Passed 4th February, 1809.

§ 1. Be it enacted by the general assembly, and it is hereby enacted, that so much of an act for dividing the county of Bourbon, which was approved on the twenty-first day of December, one thousand seven hundred and ninety three, which provides that the said county of Bourbon shall remain nineteen miles wide in the narrowest part, shall be and the same is hereby repealed.

This act shall commence and be in force from and after its passage.

CHAP. L.

AN ACT

For the better regulation of the Town of Danville.

Approved February 8, 1809.

Whereas it is represented to the present general assembly, that the several acts heretofore passed concerning the town of Danville, in the county of Mercer, have been found ineffectual for the regulation of said town; therefore,

Trustees appointed.

§ 1. Be it enacted by the general assembly, that John Rochester, James Birney, Joshua Barbee, Richard Davenport, Jeremiah Clemons, Jeremiah Fisher, Ephraim M'Dowell, Daniel M'Ilvoy and Dennis Brashear, gentlemen, are hereby appointed trustees of said town of Danville, to continue in office until the first election of trustees, hereafter provided for, by this act. The said trustees hereby appointed, shall before they proceed to act as such, severally take an oath to be administered by any justice of the peace, faithfully to discharge the duties of such office, with-

out partiality, favor or affection. Their first meeting shall be in the court-house in said town, on the first Wednesday in April next: Provided however, that if a majority of them shall not attend at the time and place aforesaid, they may nevertheless hold their first meeting at such other time and place as they may think fit. The said trustees or a majority of them at their first meeting shall appoint a clerk to hold his office until the next election of trustees, and until another shall be appointed, but for good cause may be removed and another chosen. The clerk before he enters on the duties of his office, shall take an oath to be administered by either of the trustees, that he will to the best of his skill and ability, make true entries of the proceedings of the said board of trustees, and that he will safely keep the books and papers given him in charge, and shall moreover acknowledge himself to be responsible to the said board of trustees and their successors, for any neglect or malfeasance in office, and an entry thereof shall be made on the journals of said board; and the clerk of said board is hereby authorised to administer an oath to any person who may come before said board to give testimony.

First meeting.

To appoint a clerk

To take an oath

who may administer oaths

§ 2. The said trustees or a majority of them shall at their first meeting choose a president from their own body, to be styled the president of the board; who shall hold his office until the next election of trustees, and in case of his absence at any meeting, a president pro-tem. may be chosen for that occasion.

Trustees to chuse a president

§ 3. The said board after being organized may hold their meetings at such times and places as they may think proper, and shall have full power to make such bye-laws for the government of the market, and regulation of said town, as they may deem necessary, not inconsistent with the constitution or laws of this commonwealth.

may appoint their places of meeting.

§ 4. The said trustees or a majority of them, and their successors, shall have power to levy and enforce the collection of a tax not exceeding three hundred dollars annually, on the tithables and property both

To levy and collect taxes

real and personal, within the said town, and within half a mile from the centre of the public square, and shall have a lien on such property until the tax thereon be paid, and shall apply the said tax to such purposes as they may deem proper for the benefit of said town.

May appoint com. for listing taxable property

§ 5. The said board of trustees may and they are hereby authorised at such time as they may think proper, to appoint a commissioner for the purpose of obtaining a list of each individual's, tithables, and property both real and personal, within said town and the limits aforesaid, which commissioner before he enters on the duties of his office, shall take an oath

His oath

to be administered by some justice of the peace, or one of the trustees, that he will to the best of his skill and ability, without favor, affection or partiality, discharge the duties enjoined him ; that is, that he will immediately and without delay, call on each

His duty

person, whose property may be subject to taxation under this act, and the agents, if any, of those who hold property in said town or limits, and do not reside within the same, for a list of his or her tithables and property ; which list (being corrected if necessary) and distinctly read over by the commissioner to the person delivering the same, he or she shall make oath or affirmation, to be administered by the said commissioner, to the truth of such list, and the commissioner shall value the property so listed, and note the amount of such valuation on such list; and in case of neglect or refusal on the part of the person so called upon, to give a list as aforesaid, or in case of a person holding property in said town, but residing without the limits aforesaid, and having no agent

Persons giving a fraudulent list fineable

therein, it shall be lawful for the commissioner to make out a list thereof from the best information he can procure, and to fix the valuation thereof as aforesaid ; and any person properly called on, who shall refuse to give such list, or shall give a false or fraudulent one, shall be fined by the said board in any sum not exceeding twenty-five dollars, to be appropriated as hereafter directed ; and the said commissioner shall make return of the lists of tithables and taxable pro-

perty to the said board, or some member thereof, within three months after his appointment, under the penalty of three hundred dollars; Provided however, that any person who may think himself or herself aggrieved by the valuation of such commissioner, may appeal to the board of trustees, who if they see cause may reduce such valuation.

Trusteesmay appoint a col. lector.

§ 6. And the said trustees when they have laid and apportioned the tax on the property assessed and valued as aforesaid, are hereby authorised to appoint a collector, whose duty it shall be to collect and account for such tax, within three months after a list of the same shall be put into his hands; and if any person shall refuse to pay the tax due from such person, the said collector shall have power to seize and sell so much of his or her property as will be sufficient to make the sum due from him or her as tax; and the collector shall deliver the money so collected to the president, or clerk of the board of trustees, deducting therefrom such compensation for his services, as the said board shall have agreed to pay him: Provided however, that before the said collector shall proceed to business, he shall give bond with sufficient security, to be approved of by the board, in the penalty of five hundred dollars, for the faithful discharge of the duties of his office; and should he fail to comply with the conditions of said bond, the county court of Mercer, which is hereby specially authorised and empowered for that purpose, may on application or motion on the part of the board, give judgment and award execution against said collector and security for such sum or sums with fifteen per cent. damages on the same, ten days previous notice being given to such delinquent collector of such motion.

His duty

May distrain

and pay over the money collected.

Collector to give bond

county court of Mercer may give judgment thereon on motion

Trusteesmay impose fines.

§ 7. The said board of trustees are hereby authorised to lay such fine not exceeding ten dollars, as they shall deem proper, for a breach of such bye-laws, rules and regulations as they may adopt under this act; and all fines by them imposed, together with such as are pointed out by this act (the collection of which is not otherwise provided for) shall be sued for in the name of the board of trustees for the

howsued for

How applied.

town of Danville, under their direction or the directions of some person appointed for that purpose, and the money recovered shall be applied to such purposes for the benefit of said town as they may deem expedient: Provided that no replevin shall be allowed on any judgment recovered by said board of trustees for any fine or penalty under this act.

white persons fined for racing horses, &c

§ 8. Any person who shall be guilty of running or racing horses in the streets, playing or throwing long-bullets, or shooting at a mark within said town, shall for every such offence, if a white or free person, be subject to a fine not exceeding five dollars, and if a slave shall be whipped at the discretion of a justice of the peace, with any number of lashes not exceeding fifteen. Any fine imposed by or under this act, on an apprentice infant or slave, shall be paid by the master, father or guardian.

slaves whipped

Clerk may issue subpoena

§ 9. The clerk of the board, is hereby authorized, to issue a subpoena or subpoenas, on the application of either of the trustees for any witness or witnesses, whose testimony may be deemed necessary in any matter depending before the said board; which subpoena or subpoenas, may be directed to any sheriff or constable of the county, where such witness may reside, whose duty it shall be to execute and return the same; and if any witness so summoned, shall fail to attend, he or she may be fined by the said board, in any sum not exceeding five dollars, unless he or she, shall shew good cause, why he or she did not attend, having been first summoned to shew cause: And if any sheriff or constable, who shall receive any such subpoena, shall fail to execute and return the same, he shall be fined by said board, in any sum not exceeding ten dollars, unless he can shew good cause for such neglect, having been first summoned to shew cause.

Directed to sheriff or constable.

Sheriff or constable fined for neglect.

Allowance to be made to certain persons.

§ 10. The said board, are authorized to make such allowance as they may deem proper to their commissioner, their collector, or their clerk, to be paid out of any money to be collected under this act.

§ 11. A majority of the whole number of trustees,

shall at all times be a sufficient number to proceed to business.

§ 12. And be it further enacted, that it shall be lawful, for all the free white male inhabitants of the town of Danville, and within half a mile of the center of the public square in said town, aged twenty-one years or upwards, to elect on the first Wednesday in April, 1810, and on that day annually afterwards, nine trustees for said town. The first election, shall be held in the court-house in said town, and shall be conducted by one or more of the trustees, appointed by this act, to be selected by the board for that purpose; ten days previous notice of such election, shall be given by the president of the board, in writing, set up at three of the most public places in said town; and the return of persons so elected, shall be made to the clerk of the board, for the time being, and by him recorded in their journal. All subsequent elections, shall be held under the superintendance of one or more of the board, for the time being in the same manner, at such place in said town, as the board shall have fixed on, at the time they may select the conductors of such elections—the same notice shall be given, and the return made in the same way.

Election to be held for trustees, and the qualification of votes

when held

Notice to be given

Return of persons elected

§ 13. No person shall be eligible as a trustee or qualified to act as such, if elected, unless he shall have attained to the age of twenty one years, shall be the fee simple owner of real property in said town or limits aforesaid, and shall reside within one mile of the limits of said town.

Qualifications of trustees elected

§ 14. The trustees to be elected by the inhabitants as aforesaid, shall have the same powers, to choose their president, appoint their clerk, their commissioner, their collector, to levy the same annual tax, impose fines, make bye-laws, and to do every other thing, which the trustees appointed by this act, are authorized to do. And the officers to be by them appointed, shall have the same powers, and be governed by the same regulations, which are prescribed as to those to be chosen by the trustees, appointed by this act.

Trustees elected
Their powers

Vacancies how filled

§ 15. If any vacancy shall happen by death, removal, resignation, or otherwise, either in the board of trustees hereby appointed, or any subsequent board to be elected; the board for the time being, are hereby authorized, to choose any person qualified under this act, to fill such vacancy, to remain in office till the next annual election.

Clerk accountable for monies in his hands

§ 16. The board of trustees for the said town, for the time being, shall have the right at all times, to call on their clerk, or any clerk of any former board, for any money in his hands, which may have been collected for the use of said town, and which may be unappropriated; and should he fail to pay the same, the county court of Mercer, is hereby authorized to give judgement for the same, with fifteen per cent. damages, on motion in the name of said board, against such delinquent: Provided, such clerk, shall have ten days previous notice in writing of such motion.

County court of Mercer may give judgement on motion

All acts or parts of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

This act shall be in force from its passage.

CHAP. LI.

AN ACT

To alter the time of meeting of the General Assembly.

Approved February 8, 1809.

Be it enacted by the general assembly, that hereafter the general assembly shall meet on the first Monday in December annually, any law to the contrary notwithstanding.

This act shall be in force from its passage.

CHAP. LII.

AN ACT

To amend the law respecting Cut-Money.

Approved February 8, 1809.

§ 1. Be it enacted by the general assembly, that the auditor of public accounts when he shall deem it beneficial may enter into a negociation with the president and directors of the Bank of Kentucky, for the exchange of such cut silver as may from time to time be in the public treasury for small round silver coin, on such terms as they may agree on, and not exceeding a discount of three per cent. on the cut silver, and the auditor shall give the treasurer credit for such sums as he loses in consequence of making the exchange, and it shall be the duty of the auditor to report to the succeeding general assembly, the amount of the sum or sums so exchanged, and the time on which the exchange was made.

§ 2. And be it further enacted, that when any collector of public money shall be about to pay cut money into the public treasury, such cut money shall be subject to a discount of three per centum, unless he shall verify on oath that the cut money so offered was actually received by him in making the said collection.

§ 3. And be it further enacted, that the treasurer hereafter in giving receipts for money shall express therein whether any or what cut money was received and whether any or what discount was allowed thereon.

§ 4. Be it further enacted, that from and after the first day of April in the year 1812, no cut silver shall be received into the public treasury in discharge of any revenue or debt due this commonwealth.

This act shall be in force from its passage.

CHAP. LIII.

AN ACT

For the better regulation of the Town of Winchester in Clarke County, and Versailles in Woodford County.

Approved, February 8, 1809.

§ 1. Be it enacted by the general assembly, that the trustees of the town of Winchester, in the county of Clarke, who are now in office, shall continue in office as trustees of the said town until the first Monday in June next; on which day annually there shall be an election held at the court house in said town for the election of trustees, which shall be conducted by the clerk of the trustees then in office, and under their direction; and the said clerk shall give public notice of the same by advertisement at the court-house door, and other public places in said town, one month next preceding the election in each year, and it shall also be the duty of the clerk when the election is closed to enter on record in the book kept by him for the trustees of said town, the names of those persons duly elected as trustees aforesaid.

Election of trustees.

Notice thereof.

§ 2. And be it further enacted, that it shall be lawful for all the free male inhabitants living in said town and limits thereof, as also those who may be the owner of any lot or lots in the same, who are of the age of twenty one years, and entitled to vote in the election of a representative to the general assembly of Kentucky, to elect and choose annually on the first Monday in June, five trustees; which election shall be conducted by the clerk under the direction of the trustees as aforesaid. And the trustees of said town may elect their own clerk, who shall not be removed from office for one year next succeeding his election, unless for improper conduct in discharging the duties of his office, then in that case the trustees as aforesaid, may remove him from office, and proceed to the election of another.

Qualification of voters.

Clerk to be appointed

§ 3. The said trustees shall have the power to

Power of trustees

make conveyances in the same manner, as the present trustees in office now have, also regulate and repair the streets and highways in said town, to remove nuisances and obstructions therein at the expence of the party who occasioned them, provided the party or parties will not remove them on receiving notice from the trustees aforesaid ; and when such person or persons fail, after having notice given them, to remove such nuisances or obstructions, the trustees shall on failure thereof, immediately proceed to have it done, and when done, the trustees of said town may proceed by warrant before some justice of the peace of said county, for the recovery of such sum or sums of money as may accrue in the removal of such nuisances or obstructions in said town ; and also to impose taxes (for such special purposes as tends to the improvement of said town) in any manner they may deem the most equitable, not exceeding the sum of one hundred dollars annually, on the tithables and property real and personal within said town, and also to make such provisions and regulations as they may deem proper for the collecting and accounting for the taxes so imposed, by appointing a collector and directing a distress to be made in like manner as that of collecting the revenue, in cases of delinquencies, and to make such bye-laws, ordinances and regulations not contrary to the laws and constitution of this commonwealth ; as shall by a majority of them be thought from time to time necessary for said town, and carrying this act into effect.

Qualification of trustees.

§ 4. And be it further enacted, that no person shall be eligible to the office of trustee, who is not a freeholder and inhabitant of said town.

How vacancies filled.

§ 5. And be it further enacted, that in cases of vacancies that may be occasioned by death, disqualification or otherwise, the remaining trustees shall as soon as may be, proceed to fill the vacancy from amongst the citizens of said town, who may be qualified as aforesaid ; and when a trustee shall cease to be a freeholder and inhabitant or resident in said town, he shall be considered disqualified, and another elected in his stead.

Any acts coming within the purview of this act, shall be, and the same are hereby repealed.

The powers, regulations, privileges and directions granted or made in the foregoing act for the town of Winchester, shall apply in like manner and form to the town of Versailles in Woodford county.

This act shall commence and be in force from and after the passage thereof.

CHAP. LIV.

AN ACT

Making further provisions for the Town of Springfield in Washington County.

Approved, February 8, 1809.

Whereas it is represented to the present general assembly that the proprietor of the town of Springfield did lay off and annex to said town several lots, after the establishment of said town by law, and the proprietor and inhabitants wishing to annex the same,

§ 1. Be it enacted by the general assembly, that the lots No. 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, and 140, be, and the same is hereby annexed, and considered a part of the town aforesaid, and the trustees thereof is hereby authorised, and empowered to execute deeds of conveyance to the purchasers for the same.

§ 2. Be it further enacted, that the trustees aforesaid is hereby authorised to levy on the inhabitants and improved lots in said town any sum not exceeding one hundred dollars annually, for the purpose of clearing and keeping in repair the streets, springs and well in said town,

This act shall commence and be in force from and after the passage thereof.

CHAP. LV.

AN ACT

For the relief of certain Free Persons of colour.

Approved, February 8, 1809.

Whereas a law passed at the last session of the general assembly preventing the emigration of free negroes and mulattoes to this commonwealth, and it is represented to the present general assembly that a number of free colored people with their families did remove to this state and settle in Logan county after the passage of said law, but before the same was promulgated, and the said persons have petitioned for themselves and their families to be relieved from the pains and penalties of said recited act, and that their relations by marriage or otherwise may be permitted to remove and settle in this state ; therefore,

§ 1. Be it enacted by the general assembly, that the before recited persons and their families be and they are hereby released from all the pains and penalties of the before recited act, and their free relations by marriage or otherwise, and moreover permitted to remove to this commonweath, provided such relations remove themselves and families to this commonwealth before the twenty-fifth day of December next, any laws to the contrary notwithstanding.

This act shall be in force from its passage.

CHAP. LVI.

AN ACT
For the relief of Debtors.

Approved February 8, 1809.

Defendant may replevy one year, giving bond and security

§ 1. Be it enacted by the general assembly, that if the defendant or defendants, in any execution, now issued or hereafter to be issued, on any judgment or decree, had or to be had, or in any execution now issued or to issue on any replevin bond, now in being, shall at or before the day of sale, tender sufficient security, to be bound with him to pay the amount, and also, all costs, with lawful interest for the same, to the creditor or creditors, on such execution in one year; then the sheriff or other officer, shall immediately, release the estate or body, as the case may be, of such defendant or defendants, from such execution.

Upon failure the officer shall sell at one years credit and take bond of the purchasers

§ 2. And be it further enacted, that if the defendant or defendants, in any such execution, as aforesaid, shall fail to give bond and security as aforesaid, it shall be the duty of the sheriff or other officer, holding such execution, on the day of sale, to sell the estate, to wit: lands, slaves, and personal estate, or any of them, taken on said execution, at a credit of one year, taking bond and sufficient security, to be bound with the purchaser, to pay the amount of the purchase money, with lawful interest from the day of sale, to the creditor or creditors.

Bonds to be returned to the office

Its force

§ 3. And be it further enacted, that the bonds aforesaid, taken by virtue of this act, shall be returned within thirty days after the execution thereof, to the clerk's office, or justice from whence the execution issued, and shall have the force of judgments, and on which, when due and unpaid, execution may issue in the name of the obligee, his or her executors or administrators, or in the name of the obligees, or the survivor or survivors of them, as the

case may be; and wherever an execution, shall be issued on any such bond, the slaves, personal estate, and lands of the persons, against whom such execution may issue, shall be sold for cash, for whatever price the same may bring; and on every such execution, the clerk or justice shall endorse, that no security shall be taken; but in all cases, where executions issue on replevin bonds, within the purview of this act, the proper credits, if any shall be endorsed thereon: Provided, however, that nothing herein contained, shall subject lands to the payment of debts, contracted prior to the 17th of December, 1792: Provided, also, that nothing herein contained, shall be construed to extend to any execution upon any judgement, obtained against a sheriff, coroner, or constable, or any collector of levies, or officers fees, or public revenue, or for any debt to any public creditor, put into their or any other hands to collect, or to an execution upon any judgment obtained against an attorney, for money received by him for his client, or against a principal by his security, or any public debtor, or to an execution for any debt due to the penitentiary institution; but the property taken or received under any such execution, shall be sold for cash on the day of sale, for what it will bring. Proviso

§ 4. And be it further enacted, that the sheriff or other officer, shall in the condition of any bond, taken under this act, state, as the case may be, that the defendant or defendants, have replevied for one year, or that having failed to give bond and security, that the said estate so sold, has been disposed of at a credit of one year. Condition

§ 5. And be it further enacted, that replevin bonds, or bonds for the sale of property, taken within the purview of this act, shall be assignable, and execution may issue in the name of the assingnee or assignees, his, her or their executors or administrators, as the case may be. Bonds are assignable

§ 6. And to facilitate the transfering of such replevin bonds, or bonds, for the sale of property, ta- Method of assignment

ken in pursuance of this act, it shall be lawful for the creditor to take from the clerk (or justice, as the case may be), one copy of such bond (and assignment if any), specially certified to be the copy on which transfers may be made; and it shall be the duty of the clerk (or justice as the case may be), when he shall issue a copy, thus certified, to endorse on the original bond, that such a copy hath been issued: But of each such replevin bond, one copy only, thus specially certified, shall be issued, and after the issuing thereof, it shall not be lawful to make the transfers on the original bond, but they shall be made on the copy, specially certified as aforesasd, and in such a case, no execution shall issue on the original bond, until such special copy, shall be returned and filed with the original: But if such copy, shall be lost or destroyed, so that it cannot be returned, the court (on the same being satisfactorily proved) may by order give leave for execution to issue, as though the copy had been returned: Provided, however, that nothing in this section contained, shall be construed to affect replevin bonds, of which such special copy as aforesaid, shall not have been taken out.

§ 7. This act shall commence and continue in force from its passage, until the first day of April, 1810, and no longer; but provided, nevertheless, that all bonds taken under this act, shall remain as valid and liable to be proceeded on, according to the directions hereof, after the said first day of April, 1810. And all laws contravening the provisions of this act, shall be suspended during the continuance of this act.

CHAP. LVII.

AN ACT
For the relief of Richard Wilmott.

Approved February 8, 1809.

Whereas it is represented to the present general assembly, that Richard Wilmott of Warren county, by mistake has paid the state price of two hundred acres of land lying in said county, held by commissioners certificate, number one thousand four hundred and twenty seven, and obtained a patent for the same, when in fact the said land belonged to some other person, and had been assigned to said Wilmott by mistake, and hath petitioned for relief; wherefore,

§ 1. Be it enacted by the general assembly, that it shall and may be lawful for the said Wilmott to return to the register's office the patent thus obtained by him in mistake, and therewith also file in said office a relinquishment of said right to said land in due form under seal, and acknowledge before the register of the land office, or before the clerk of the court of the county where the land lies, and duly certified; which patent the register shall sufficiently mark and endorse as cancelled and moreover shall record in his office the said relinquishment; which cancelled patent and relinquishment the register shall file and carefully preserve; whereupon the patent issued to the said Wilmott, for the land aforesaid, shall become void and of no effect; and the register shall note in the margin of his record book opposite to the said patent that the same is vacated; whereupon the register of the land office, in consequence of the state price already paid, shall issue a grant unto the said Wilmott by virtue of the commissioners certificate actually purchased, which is number one thousand four hundred and twenty-four, for said two hundred acres of land.

§ 2. Be it further enacted, that the certificate number one thousand four hundred and twenty-seven, on which said patent wrongfully issued, shall and may,

by the proper owner paying the state price according to law, be carried into complete grant, and be as valid in law as if such mistake had not happened.

This act shall commence and be in force from and after the passage thereof.

CHAP. LVIII.

AN ACT

For the benefit of Elizabeth Worthington, and the heirs of Edward Worthington, deceased.

Approved, February 9, 1809.

Whereas it is represented to the general assembly, that Patrick Shoan, who was entitled to a settlement and preemption, in Kentucky, descended the Ohio river, in the year 1778 or 1779, and has never returned, but is believed to be dead, and it being proved that the said Shoan had declared that Edward Worthington and himself were in partnership. And whereas the said Edward Worthington laid the claim aforesaid before the court of commissioners, and obtained a certificate of settlement and preemption in the name of Shoan, paid the state price for the preemption warrant, and all expences incidental to the completion of the claims. And whereas it is also represented that the said Shoan and Elizabeth Worthington, widow of the said Edward, were by some reputed relatives ; and that the said Edward died possessed of a writing which had been assigned to him by the said Shoan for two hundred acres of land on one Boone, which is stated never to have been obtained, or any consideration for the same. And it being proved to this general assembly, that the said Edward Worthington with the said Elizabeth settled a station on the said land in the year 1780, and that they, and those claiming under them, have ever since continued in possession thereof, and paid the taxes thereon ; in consideration whereof,

Be it enacted by the general assembly, that what-

ever right and claim may belong to, and vests in this commonwealth to the said land by escheat or reversion, for want of a proper heir at law to the said Shoan, shall be, and the same is hereby granted to, and vested in the said Elizabeth Worthington, and the children and legal representatives of the said Edward deceased, in equal shares, and to their respective heirs and assigns forever: Provided, however, that all sales and contracts for any part of the land aforesaid, made by the said Edward deceased, or by any of his heirs of their respective proportions, shall be as obligatory, and entitle the purchaser thereto, in the same manner and to the same extent, as if this grant had preceded such sale.

This act shall be in force from its passage.

CHAP. LXIX.

AN ACT

To extend the next June term of the Fayette Circuit Court.

Approved February 9, 1809.

Be it enacted by the general assembly, that the Fayette circuit court, at their next June term, shall continue thirty juridical days, if the business of said court shall render it necessary.

This act shall be in force from its passage.

CHAP. LX.

AN ACT

To suspend in part the acts concerning the Inspection of Tobacco.

Approved, February 9, 1809.

Be it enacted by the general assembly, that so much of the 23d section of the act entitled." an act to amend and reduce the several acts of assembly for the inspection of tobacco into one act," as requires, that tobacco remaining in a public ware-house, two years after inspection, should be advertised and sold in the manner directed by said act; and that all act or acts of assembly, that requires tobacco remaining in any public ware-house for a limitted time after inspection, shall be advertised and sold, be and the same are hereby suspended, until the first day of May in the year, 1812.

This act shall be in force from its passage.

CHAP. LXI.

AN ACT

To amend the several acts of Assembly concerning the Town of Frankfort, and the act incorporating the Frankfort Water Company.

Approved, February 9, 1809.

§ 1. Be it enacted by the general assembly, that it shall and may be lawful, for the trustees of the town of Frankfort to erect a market-house, in the street called Broadway in said town, of such dimensions, as to leave a passage in the said street, at least twenty two feet wide on each side of the said market-house, clear of the usual breadth of the footways established by the trustees for the regulation of the town. And the said trustees, are hereby authorized and empowered, to have the said market-house

extended along Broadway street, from and on each side of the said Saint Clair street, westwardly and eastwardly, as far as from time to time shall be found expedient: Provided, however, that it shall not be erected so as to obstruct St. Clair street where it crosses Broadway or any other street or alley.

§ 2. And be it further enacted, that hereafter, the trustees of Frankfort for the time being, shall be the directors of the Frankfort water company, and shall exercise all the powers and be governed by the laws applicable to said corporation, and so much of the act incorporating the said water company as authorizes and directs the election of directors, shall be and the same is hereby repealed.

This act shall be in force from its passage.

CHAP. LXII.

AN ACT

To authorize the publication of advertisements in the Political Theatre and Dove.

Approved, February 9, 1809.

Be it enacted by the general assembly, that it shall and may be lawful for any advertisement, which is required by law to be published in a news-paper in this commonwealth, to be inserted in the Political Theatre printed in Lancaster, and also, the Dove printed in the town of Washington, and the editor or editors of said papers, shall be entitled to the same fees and be governed by the like regulations as other printers in this commonwealth: Provided, however, that nothing herein contained, shall be so construed as to authorize the insertion in the Political Theatre or Dove, of such advertisements as are particularly required by law to be published in the paper of the public printer.

This act shall be in force from the passage.

CHAP. LXIII.

AN ACT

Authorizing the editor of the Farmers Friend to insert certain advertisements.

Approved, February 9, 1809.

Be it enacted by the general assembly, that it shall and may be lawful, for any advertisements which are required by law, to be published in a news-paper, to be inserted in the Farmers Friend, printed at Russelsville; and the editor or editors of the said paper shall be entitled to the same fees, and be governed by the like regulations, as other printers in this commonwealth: Provided, that nothing herein contained shall be so construed, as to authorize the insertion in the Farmers Friend, of such advertisements as are particularly required by law, to be published, in the paper of the public printer.

This act shall commence and be in force from and after the passage.

CHAP. LXIV.

AN ACT

Legalizing the proceedings of the County Court of Estill at their April term 1808, so far as respects the appointment of commissioners of the tax.

Approved February 9th, 1809.

Whereas it appears to the general assembly, that in consequence of the law establishing the county of Estill, enacting that the first court held for said county should be held in a month subsequent to that in which by law the commissioners of the tax are required to be appointed; doubts arise respecting the legality of the appointment of the said commis-

sioners of the tax for the county of Estill at their April court last past; For remedy whereof,

§ 1. Be it enacted by the general assembly, that so much of the proceedings of the said county court of Estill as respects their appointing commissioners of the tax at their April court last past, shall be, and is hereby legalized and confirmed, any law to the contrary notwithstanding.

This act shall commence and be in force from and after the passage thereof.

CHAP. LXV.

AN ACT

To amend the act entitled an act to amend the law concernin the Turnpike and Wilderness Road.

Approved February 9th, 1809

§ 1. Be it enacted by the general assembly, that the further time of eight months from and after the first day of March next, be and is hereby allowed the undertaker of the bridge to be built over Rockcastle river on the Madison road, to finish said bridge.— And should the commissionars of the said bridge deem it necessary to make any addition to the plan of said bridge, that will create additional labor and expence to the undertaker, they shall have power to do so, and make such an additional allowance to the undartaker as they may deem proper, provided such additional allowance does not exceed one fourth of the sum hereafter appropriated for the purpose of keeping in repair that part of the turnpike road leading from Joe's lick in Madison county to the intersection of the Crab-Orchard road commonly called the Madison road.

Undertaker ofRockcastle bridge allowed further time to compleat the same

§ 2. Be it further enacted, that from and after the twenty-fourth day of February, 1809, one fourth of all the money received by the turnpike keeper for toll, after deducting his salary is hereby appropriated for

Toll how to be appropriated.

the purpose alone of keeping in repair the said Madison road, and the finishing and keeping in repair the said bridge, provided the sum requisite to finish and keep in repair the said bridge does not exceed one third of the sum hereby appropriated: Provided however, that should it appear at any time that one third of the sum aforesaid is insufficient to finish and keep in repair the said bridge, and there should be a balance of the remaining two-thirds unexpended on the said road, in that case the directors shall apply such balance towards finishing and keeping in repair the said bridge.

Balance due from former comm'r. how applied.

§ 3. Be it further enacted, that any balance that may be found due from William Hogan, the former turnpike keeper, or William Kerly, the former commissioner of the Madison road, upon a settlement with them or either of them, shall be applied towards keeping the said bridge and the Madison road in repair.

Additional toll.

§ 4. Be it further enacted, that the keeper of the turnpike shall demand and receive in addition to the present toll for waggon passing through the turnpike twelve and a half cents for each wheel; and for each four wheel riding carriage and team one hundred and fifty cents, and for each two wheel riding carriage and team seventy-five cents in lieu of the toll heretofore paid for such carriages.

Three directors.

§ 5. Be it further enacted, that instead of four directors as was directed by the law of the last general assembly to be appointed by the governor, there shall be but three in each of the counties of Madison, Lincoln and Knox.

Allowance to Alsop.

§ 6. And be it further enacted, that John Alsop, senr. shall be allowed thirty dollars as a compensation for his expence and trouble in making the necessary buildings at the turnpike gate, which became necessary on account of the gate being removed to its present place by order of the governor, which sum the said keeper is hereby authorised to retain out of any money in his hands arising from the turnpike.

To Owsley.

§ 7. Be it further enacted, that the turnpike keeper is hereby authorised and directed to pay Anthony Owsley, former commissioner of the wilderness road,

the sum of seventy-seven dollars and fifty cents, to be paid quarterly from and after the first day of May next.

This act shall commence and be in force from and after the passage thereof.

CHP. LXVI.

AN ACT

To compel the speedy adjustment of land claims.

Approved February 9, 1809.

Whereas the prosperity of this commonwealth, hath been greatly checked, its improvement and settlement retarded, and its citizens continually alarmed, and often ruined in their fortunes, by reason of the interference of land claims founded or alledged to be founded on the land laws of Virginia, or of this state; as claims dormant and utterly unknown to the neighbourhood of a disputed tract of land, are often brought up, not only to alarm, but eventually to cast out naked in the world, numerous well settled and industrious families; as late and inferior claims to land are held up and concealed until the witnesses to establish the elder and superior title, shall be dead or removed to remote places, or until the property may have fallen into the hands of persons ignorant of the sources of proof respecting it; and as these evils instead of passing away as was once hoped with the lapse of time, are still increasing: For remedy thereof, and to fix the period to which the citizens of this state, and the proprietors of land therein, may look forward for peace to themselves, and safety to their property, Preamble

§ 1. Be it enacted by the general assembly, that after the first day of January in the year one thousand eight hundred and sixteen, no action at law, bill in equity, or other process, shall be commenced or sued out by any person or persons claiming land Limitation to actions agst. actual settler.

under or by an adverse interfering entry, survey, or patent, whereby to recover the possession from any person or persons, who shall have actually settled thereon, before the passage of this act; and to which he or she so settled at the time of such settlement, had a connected title in law or equity, deducible of record from the commonwealth; and where the settler, shall have acquired such title or claim after the time of the settlement made, the limitation shall begin to run only from the time of acquiring such title or claim.

Limitation thereof against those who may hereafter settle.

§ 2. And be it further enacted, that no action at law, bill in equity, or other process, shall be commenced or sued out by any person or persons, claiming under or by an adverse interfering entry, survey or patent, whereby to recover the title or possession of such land from him or her, who shall hereafter settle on land, to which he or she, shall at the time of such settlement made, have a connected title in law or equity, deducible of record from the commonwealth; and where the settler, shall have acquired such title or claim after the time of the settlement made; the limitation shall begin to run only from the time of acquiring such title or claim, but within seven years next after such settlement made: Provided, and be it further enacted, that where possession acquired as aforesaid, hath been transmitted by sale or other legal act of conveyance, the purchaser or person holding by such conveyance, shall have the same benefit of this act, as he or she from whom the possession was derived, could have had by virtue of such possession: And provided also, that possession as aforesaid, to bar the actions or suits aforesaid, must and shall have been continued for the aforesaid term of six years next, preceeding the commencement of any such suit or action. And if any one shall proceed contrary to this act, the court before whom such proceedings are had, shall adjudge double costs from the plaintiff or complainant, to the said defendant or defendants.

Proviso.

And whereas, it often happens, that plaintiffs or complainants make false or feigned suggestions to evade statutes: For prevention whereof,

§ 3. Be it enacted, that no plaintiff or complainant, claiming land as above recited, and instituting his bill or suit after the expiration of the limitation aforesaid, shall under pain of having his bill or suit dismissed with costs, lay, declare, or suggest in his bill, any other source, ground, or cause of suit, than that alone to which the limitation above set forth is meant to extend; and if he have a claim to, or right of action for the land in question, founded otherwise, than is mentioned in the first section of this act, the same shall still remain unprejudiced and lawfully pursuable.

False suggestions as the causeofaction prohibited.

§ 4. The limitation prescribed in this act, shall not extend to infants, femes covert, or persons of unsound mind, nor to persons out of the United States, in the employment of the United States, or this state; but such persons shall be at liberty to institute such suits, as are meant to be limited by this act, at any time within seven years after their respective disabilities are removed, or after the expiration of their employment, beyond the limits of the United States: Provided, however, that where the limitation shall have began to run, and the right or title shall by the act of God or operation of law, be cast upon any person, within the disabilities and exceptions, the time of the existence of such disability or privilege, shall be excepted out of the computation of the time of the limitation aforesaid.

Exceptions to said limitation.

CHAP. LXVII.

AN ACT

To amend the act entitled "an act authorizing John Pope to erect a bridge across the Kentucky River."

Approved February 9th, 1809.

Whereas an act entitled "an act authorising John Pope to erect a bridge across the Kentucky river,"

was approved the twenty first of December 1805, by which the said Pope was authorized upon certain terms and conditions, to erect a bridge across the said river, from the end of Anne street to South Frankfort.

And it is now represented, that the erection of a bridge across the said river, from the end of Saint Clair street to South Frankfort, would be agreeable to said Pope, who would furnish one half of the necessary funds, and certain subscribers the other half, which would answer every reasonable purpose of private emolument, and of public utility: Therefore,

§ 1. Be it enacted by the general assembly, that the said John Pope and such others as may subscribe for the purpose, be and hereby are authorized and empowered upon the conditions, and terms specified in the said recited act, and agreeably to such rules of management, as to the construction of the said bridge, and the raising and applying their funds, as they or a majority of them may adopt, to build a bridge across the said river, from the end of the said Saint Clair street to South Frankfort, and to receive the tolls for passage and transportation over the said bridge, agreeably to the said recited act: Provided, that the citizens of Franklin county, resident on the south side of the Kentucky river, in addition to the exemptions specified in the said recited act, shall not be compelled to pay any toll in going to, or returning from their county courts.

§ 2. And be it further enacted, that should the said John Pope, fail or refuse for the space of four months after the passage of this act, to unite with the said subscribers, and to furnish or secure to be furnished, the one half of the funds necessary to build the said bridge, agreeably to the terms imposed on the subscribers generally, such half may be taken and subscribed for by any others, who with the subscribers aforesaid, shall have and hereby are vested with the rights, powers and privileges, and subject to the like terms, conditions and restrictions, as the said John Pope, and the first mentioned sub-

scribers, are or would have been by this and the aforesaid recited act; in providing and applying the funds, building the bridge, and receiving the tolls aforesaid, and generally as to all matters concerning said bridge.

This act to be in force from its passage.

CHAP. LXVIII.

AN ACT

To amend an act, passed February, 1808, entitled "an act concerning the collection of certain officer's fees."

Approved, February 9, 1809.

§ 1. Be it enacted by the general assembly, that if any clerk of a court or other officer, within the purview of the act of assembly, passed in February, 1803, concerning the collection of certain officers fees, shall be ignorant of the county of residence of any person or persons indebted to him for fees, and shall verify the same on oath, in the court of the county where the services were rendered, or (if a clerk of a court) in the court of which he is clerk, the same shall without fee, be entered specifying the fee bill particularly; and thereupon, the same may be noted on each fee bill respectively—whereupon the right of collection by distress (for non-payment), shall remain attached to such fee bill, when sent out for collection, as though it had been annually sent out and endorsed agreeably to the provisions of the act aforesaid: Provided, however, that the oath, entry and noting aforesaid, shall be done within that year, in which such fee bill, might first have been sent out for collection.

Fees against persons whose residence is not known:

right of distress retained

Proviso.

§ 2. And be it further enacted, that whenever fees, shall be due from and payable by any person or persons residing without the county, in which the services shall have been rendered, the fee bills may be sent out the second year for collection, with right

Fees against persons residing out of the county, right of distress retained.

of distress (for non-payment), although they may not have been sent out the first year and endorsed agreeably to the provisions of the said act of assembly: Provided, however, that nothing in this section contained, shall be construed to affect the before mentioned act, so far as it may be applicable to persons residing the whole of the first year within the county, in which the servicies shall have been rendered.

Proviso.

Duty of returningofficer on delinquint fee

§ 3. And be it further enacted, that whenever fee bills, shall have been duly sent out for collection, and about to be returned as delinquents, it shall be the duty of the returning officer (if such is the truth of the case) to endorse thereon the insolvency of the person or persons against whom the fee bill had issued, or that he, she or they, do not reside within this commonwealth; and in such case it shall not be incumbent on the officer claiming such fees, to send out the fee bills from year to year, but may send out such fee bills afterwards at discretion, for collection with right of distress as in other cases.

right distress retained.

§ 4. And whereas it is represented, that the act of Assembly aforesaid, passed in February, 1808, did not become generally known previous to April in that year, and that sundry clerks, had without knowing the law, failed to comply with its provisions: For remedy whereof, Be it further enacted, that each clerk and other officer coming within the purview thereof, shall have until the first day of April, 1810, to comply with the provisions thereof, and if done within that time, shall place such fee bills on as favourable a footing as though it had been done within the time prescribed by the said act.

Further time to comply with the law of 1808, as to fees given.

This act shall commence from and after the passage thereof.

CHAP. LXIX.

AN ACT
For the relief of John Logan's Heirs.

Approved, February 9, 1809.

Whereas from the uncommon scarcity of money it is evident, that property at forced sales for ready money, must be so sacrificed as to destroy a debtor without much benefiting the creditor, and whereas, there is a judgment and execution, for the Commonweath, against the estate of John Logan deceased, by virtue of which, the sheriff of Franklin now holds the property, and it is deemed reasonable, that while the collection of the debt is secure to the commonwealth, that some protection ought to be afforded to the widow and orphans of the said Logan against unusual and unreasonable sacrifices: For remedy whereof,

§ 1. Be it enacted by the general assembly, that the sheriff of Franklin county, be and he is hereby authorised by virtue of the said execution to sell the property aforesaid, for the best price, that can be had at a credit of twelve months, taking sufficient bond and security of each purchaser, for the amount of his or her purchase, with interest thereon from the time of the purchase, which bond shall be returned with the execution to the clerks office, and shall have the force of a replevin bond; on which execution may issue when due, as on other replevin bonds, and the administrators of the said Logan, on settlement of the said estate, shall be accountable for the same according to the sales made by the sheriff as aforesaid and no more:

Provided, that any estate, that may be taken by virtue of an execution, that may issue on said replevy bond, shall be sold for what it will bring in cash, after advertising the usual time, any law to the contrary notwithstanding.

This act to be in force from its passage.

CHAP. LXX.

AN ACT

To prevent attornies at law of the state of Ohio from practising in courts in this commonwealth under certain restrictions.

Approved February 9th, 1809.

§ 1. Be it enacted by the general assembly, that no attorney or counsellor at law of the state of Ohio shall be permitted to practice law in any of the courts of this commonwealth until an act of the legislature of the state of Ohio prohibiting the attornies and counsellors at law of the state of Kentucky practising in the said state of Ohio be repealed: Provided nevertheless, that the attornies of the said state of Ohio may finish any suits in which they are now employed in the courts of this commonwealth.

This act shall commence and be in force from and after the passage thereof.

CHAP. LXXI.

AN ACT

For the relief Charles Quirey and Samuel Hinch.

Approved, February 9, 1809.

Whereas it appears to the general assembly, that Charles Quirey late high sheriff of Jefferson county, did employ William Sullivan and Samuel Hinch, as his deputies, and that in consequence thereof the collection of the revenue tax for the year 1803 was put into their hands; that the said Samuel Hinch did in due time return his list of delinquents to the county court of Jefferson, which was examined and certified as the law directs, and that the said Hinch did deliver the

same to the said William Sullivan for the purpose of effecting a settlement with the auditor of public accounts. And whereas it further appears, that the said William Sullivan soon after the receipt of the said list, departed this life without returning the same to the auditor, by reason whereof a judgment was obtained in the general court against the said Charles Quirey for the amount of the balance of the revenue tax for the said year, in which the said Hinch's list of delinquents amounting to $102 76 cents 5 mills was included, and it being judged reasonable that the said Samuel Hinch should receive a credit for the delinquents so returned, and which by misfortune was not credited, deducting the sheriffs commissions amounting to seven dollars seventy one cents, allowed on the rendition of the judgment aforesaid,

Be it therefore enacted by the general assembly, that the auditor of public accounts be authorised, and he is hereby directed to credit the said Charles Quirey in the judgment aforesaid with the sum of ninety five dollars, five cents and five mills, being the amount of the said list of delinquents after deducting the sheriffs commissions aforesaid, which sum shall enure to the benefit of the said Samuel Hinch in the settlement of his account for collecting and accounting for the revenue aforesaid.

This act shall be in force from its passage.

CHAP. LXXII.

AN ACT

Altering the times of holding certain courts in this commonwealth.

Approved, February 10, 1809.

§ 1. Be it enacted by the general assembly, That hereafter the circuit courts of Knox county, shall be held on the first Mondays in April, July and October, in every year, and continue six juridical days at each term, if the business thereof require it. Knox.

Livingston. The circuit courts of the county of Livingston shall commence and be held on the first Mondays in April, July and October, in every year, and continue six juridical days at each term, if the business thereof require it.

Warren The circuit courts for the county of Warren shall commence and be held on the first Mondays in March, June and September in every year.

Barren. The circuit courts for the county of Barren, shall commence and be held on the third Mondays in March, June and September, in every year, and continue twelve juridical days at each term, if the business thereof require it.

Pulaski The circuit court of Pulaski county, at their next April and July terms, shall continue to sit twelve juridical days at each, if the business thereof require it.

Pendleton The circuit courts for the county of Pendleton shall commence and be held on the third Mondays in April, July and October in each year, and shall continue six juridical days at each term if the business thereof requre it.

Casey The circuit courts for the county of Casey, shall commence and be held on the second Mondays in May, August, and November in every year, and shall continue six juridical days at each term if the business thereof require it.

Woodford. The circuit court for the county of Woodford, shall commence and be held on the first Mondays in March, June, and September in every year, and continue to sit twelve juridical days at each term, if the business thereof require it.

Henry The circuit court for the county of Henry, shall commence and be held on the first Monday in March in every year, and sit six juridical days, if the business thereof require it.

Gallatin The circuit court for the county of Gallatin, shall commence and be held on the second Monday in April, instead of the second Monday in March in every year, and sit six juridical days, if the business thereof require it.

Scott The circuit courts for the county of Scott, shall commence and be held on the first Mondays in A-

pril, July and Ocotber in every year, and shall continue twelve juridical days at each term, if the business thereof require it.

Campbell

The circuit courts for the county of Campbell, shall commence and be held on the fourth Mondays in April, July and October in every year, and shall continue six juridical days at each term if the business thereof require it.

Boone

The circuit courts for the county of Boone, shall commence and be held on the first Mondays in May, August and November in every year, and shall continue six juridical days at each term, if the business thereof require it.

Regulations respecting the return of process

§ 2. Be it enacted, that all writs, recognizances and every process, which are or shall be sued out, before the first term of the said courts respectively, as directed by this act, and made returnable to the terms of the said courts as heretofore by law directed to be held, shall be returnable and returned to the first terms of the said courts respectively, as directed by this act to be held, and there shall be no discontinuance of any suit, writ, process, or motion depending, or to be made or issued in the said courts, or either of them, by reason of the alteration made by this act in the terms of holding said courts.

oountycourts when held

§ 3 Be it further enacted, that the county courts of the said counties, shall after the first day of March next, be held on the same Mondays in every month in the year, in which the circuit courts are therein respectively directed by this act to be held, except the months in which the circuit courts are holden.

Garrard

§ 4. The county court of Garrard county, shall hereafter be held on the second Mondays in each month in every year, except the months in which the circuit courts for said county are held.

Green

The circuit court for the county of Green, shall commence on the fourth Mondays in February, May and November in every year, and sit six juridical days at their February, and twelve days at their May and November terms, if the business thereof require it.

Nelson

§ 5. Be it further enacted, that the circuit court for the Nelson circuit, shall from and after the pas-

sage of this act, sit twenty-four juridical days a each term, if the business before the court shal require it; and that the last six days in each term, shall be appropriated to the trial of chancery suits alone.

Livingston

§ 6. Be it further enacted, that the county of Livingston, shall be added to, and constituted a part of the sixth juridical district, and the circuit courts for said county, shall commence on the fourth Mondays in March, June and September.

Muhlenburg

The circuit courts for the county Muhlenburgh, shall commence on the second Monday in March, June and September.

Hopkins

And the circuit courts for the county of Hopkins, shall commence on the third Monday in March, June and September.

Caldwell

§ 7. And be it further enacted, that the county of Caldwell, shall be added to and constitute a part of the seventh juridical district, and the circuit courts for said county, shall commence on the first Monday in April, July and Octotober, and continue one week each, if the business before them require it. And the county courts for said county, shall commence on the same day in every month, except in those months in which the circuit courts are directed by this act to be held.

All acts and parts of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

Greenup

The circuit court for the county of Greenup, shall be held on the third Monday in October, instead of the third Monday in November, and shall sit six juridical days.

Lewis

The circuit court for the county of Lewis, shall be held on the fourth Monday in October, instead of the fourth Monday in November, and shall sit six juridical days.

Mason

The circuit court of Mason, shall sit the second Monday in August and November, instead of the second Monday in September and December, and shall continue eighteen juridical days each, if the business thereof require it.

This act shall commence and be in force from and after the passage thereof.

CHAP. LXXIII.

AN ACT

Supplementary to the act entitled an act to repeal the provisionary clause of the act establishing the county of Harrison.

Approved, February 9, 1809.

Whereas further regulations and provisions are necessary to carry the act entitled an act to repeal the provisionary clause of the act establishing the county of Harrison, into full and compleat operation,

Be it therefore enacted, that it shall be lawful for the sheriff of Bourbon county to collect or make distress for any public dues and officer's fees, which shall remain unpaid by the inhabitants of that part of Bourbon county which will by the aforesaid act be added to the county of Harrison, to wit: all that territory included in the lines and bounds as designated in the act for dividing the county of Bourbon, approved December 21st, 1793, without regard to the provisionary clause in said act, all which is hereby added to the county of Harrison; and shall be acountable for the same in like manner as if the aforesaid act had not been made. And that the courts of the said county of Bourbon shall have jurisdiction in all actions and suits in law or equity, which shall be depending before them, at the time the aforesaid act passed, and shall try and determine the same, issue process and award execution.

This act shall be in force from its passage.

CHAP. LXXIV.

AN ACT

To amend the act entitled an act for the procurement of a Fire Engine.

Approved February 9, 1809.

Be it enacted by the general assembly, that the governor for the time being, be and he is authorised and

requested with all convenient dispatch to take effectual measures to procure the fire engine contemplated in the act entitled an act for the procurement of a fire engine, approved Dec. 26, 1806, and for this purpose to call on the late governor for the production of the said engine or the money drawn from the public treasury for that object; and otherwise to proceed as the circumstances of the case may require to effect the purposes of this and the said recited act.

This act to be in force from its passage.

CHAP. LXXV.

AN ACT
Concerning the Secretary and his office.

Approved, February 11, 1809.

To procure press.

§ 1. Be it enacted by the general assembly, that the secretary of state be and he is hereby authorised to procure for the use of his office one large additional press for the purpose of containing the books and papers of said office, also one box to hold the enrolled bills or laws of this state, also a writing table with convenient seats and to have the machine for making and impressing the state seal, so constructed as to be convenient for that purpose. And for the securing of the said office from fire, he is hereby authorised and directed to have the floor thereof around and contiguous to the fire place at a convenient distance therefrom covered with tin or sheet iron, and to procure a proper fender and a pair of andirons for the use of the office, all of which to be done under his direction.

Office to be secured from fire, and how

Secretary to exchange copies of laws.

§ 2. And be it further enacted, that it shall be the duty of the secretary, to interchange with any state or territory of the United States which may have transmitted or may hereafter agree to do so, copies of the laws of this state, for copies of their laws, in equal proportions to those laws of theirs which may be received; and where the laws received by him

shall be bound, to cause those which he may transmit in exchange to be bound in like manner.

§ 3. And be it further enacted, that copies of any of the printed laws of any state or territory of the United States, which may have been heretofore or may hereafter be received in the secretary's office, and which shall have been printed under the authority of such state or territory, when duly certified under the hand and seal of the secretary of state, shall be admitted and received as evidence of such law in like manner with said printed copy in any of the courts or before any juridical officer of this commonwealth.

Further provision respecting laws.

§ 4. Be it further enacted, that it shall be the duty of the secretary to cause one compleat set of the laws of this state and of the United States, to be bound in good law binding and lettered; and one compleat set of the journals of both houses of the legislature and of the congress of the United States, and such of the laws of the several states or territories which have been or may hereafter be received to be half bound and lettered; and to continue to cause the same to be so done hereafter as occasion may require: and that he shall procure if practicable such of any of the laws or journals of this state as are not in his office: Provided however, nothing herein shall be construed to extend to direct or authorise the secretary to cause any copies of any of the laws or journals aforesaid to be bound where the same shall be already bound and in his office. And when any secretary shall go out of office he shall deliver to his successor a list of the bound books remaining in the said office at the time, and shall take his receipt for the same, a copy of which list and receipt, shall be recorded in the clerk's office of the court of appeals, and the secretary for the time being, shall be responsible for the said books, accidents excepted.

Laws of this state and U. States to be bound.

Further duty of Secretary.

Proviso

Secretary who goes out of office, his duty

§ 5. And be it further enacted, that for the necessary sums, for procuring the said press, table, &c. and for the procuring and binding the books, &c. an account thereof, shall be submitted to the governor,

Press, table, &c. how to be paid for

and if he approve of the same, he shall certify it to the auditor, who is hereby directed thereon, to issue his warrant upon the treasury for the sum or sums so certified, and the treasurer is directed to pay the same.

This act shall be in force from and after the passage thereof.

CHAP. LXXVI.

AN ACT

Authorising the Justices of certain County Courts and Trustees of Accademies, to appropriate Lands for the use of Seminaries of learning.

Approved, February 11, 1809.

Be it enacted by the general assembly, that the justices of the county courts of Caldwell, Hopkins, Henderson and Estill, are hereby authorized to procure to be located, surveyed and patented, six thousand acres of any vacant and unappropriated land in the commonwealth, for the use of seminaries of learning within their respective counties; except the lands to which the Indian title is extinguished by the treaty of Tellico, and the lands lying west of the dividing ridge between the waters of Cumberland and Tennessee.

Be it further enacted, that the justices of such county courts and trustees of academies, as have located a part of their donation lands, are hereby authorized to procure to be located, surveyed and patented so much of the lands aforesaid, in addition to the quantity already located, as will make in the whole, six thousand acres: Provided, however, that the justices of the several county courts and trustees aforesaid, shall be regulated by the laws now in force, granting donation lands to other counties in this commonwealth.

Be it further enacted, that the justices aforesaid and those of such county courts and trustees of academies, as have not located and surveyed their donation lands, shall have two years from the passage of this act for that purpose: Provided, however, that nothing contained in this or any other act, shall be so construed as to authorize the locating and surveying of more than 6000 acres of land, for any one county herein named.

This act shall be in force from the passage thereof.

CHAP. LXXVII.

AN ACT
Concerning the Treasurers and Auditors.

Approved, February 11, 1809.

Be it enacted by the general assembly, that every person, who may have obtained or hereafter obtain, a certificate from the court, on account of their having paid money into the treasury for lands lost by virtue of military claims, &c. as is provided in the first section of the act passed the twenty-first of December one thousand eight hundred and two, entitled "an act for the relief of settlers in this commonwealth in certain cases," instead of producing such certificate to the treasuer, shall take it to the auditor, who shall issue his warrant on the treasurer for the sum the applicant may be entitled to, which shall be discharged by way of credit, as is directed by the before recited act.

This act shall be in force from its passage.

CHAP. LXXVIII.

AN ACT

Repealing all Laws establishing Examining Courts in this Commonwealth.

Approved February 11th, 1809.

Repealing clause.

§ 1. Be it enacted by the general assembly, that the thirteenth section of the act entitled "an act to establish circuit courts," and so much of all other acts or parts of acts, as requires a court of examination in the case of a free person, charged with a criminal offence, shall be, and are hereby repealed.

Duty of justices.

§ 2. Be it further enacted, that when any free person, shall be brought before a justice of the peace, upon a criminal charge, the punishment of which, if true, may be capital, or confinement in the penitentiary house, or corporal, it shall be his duty to go with the parties to some other justice of the peace of the same county, which two justices, shall inquire into the truth thereof; and if they shall be of opinion, that the accused ought to be tried before the circuit court, the said justices shall, by a warrant under their hands, commit the person so charged to the jail of his county, if the offence be not bailable, or being bailable, if the accused fail or refuse to give bail, there to remain until the first day of the next circuit court, or until he, she, or they shall give bail, in a penalty previously fixed by said justices, or until he or she be discharged by due course of law. But

The accused may be admitted to bail

if the offence be bailable, and the accused pray to be admitted to bail, and offer one or more sufficient bail, the said justices shall take the recognizances accordingly, for the appearance of the accused before the Circuit Court, and on the first day of the next succeeding term. And the said justices shall also re-

Witnesses to be recogniz'd

cognize the witnesses, who appeared before him in support of the charge, to appear before the Circuit Court on the first day of their next succeeding term. Provided however, that nothing herein contained shall be so construed as to prevent a justice of the

Peace, residing out of the county, where the crime may have been committed, and before whom the accused shall be brought, from proceeding to deal with the person so accused, according to the law now in force.

§ 3. Be it further enacted, that to aid the commonwealth's attorney to form a bill of indictment, it shall be the duty of the justices, before whom a person shall be accused as aforesaid, and who shall be of opinion that he ought to be sent to further trial, to take down in writing a concise statement of the evidence produced in support of the charge, setting forth the nature, time, place and manner of perpetrating the crime, or as many of these circumstances, as they shall be enabled to do. And they are hereby required and directed to deliver the recognizances aforesaid of the accused, bail and witnesses, and the said statement of evidence to the clerk of the circuit court, within ten days after the prisoner may be committed or bailed by them, unless the circuit court should sooner intervene, and in that case they shall deliver them to the clerk before the first day of the term of the said court.

Justice to take down in writing statement of evidence.

Recognizances &c. to be delivered & to whom.

§ 4. Be it further enacted, that it shall be the duty of the clerk of the said circuit court, to deliver to the attorney for the Commonwealth, the said statement of evidence, upon which he shall prepare and lay before the grand jury, the necessary presentment or indictment as heretofore. And the said clerk of the circuit court, upon the receipt of the said recognizances or statement of the evidence aforesaid, shall issue a *venire facias*, directed to the sheriff of the county, unless he be the accused, or otherwise disqualified, and in that case to the coroner, commanding him to summon twelve good and lawful men of the vicinage, to attend in such case as a venire before the circuit court on the first day of the term. And the officer executing the said writ, shall also make out and return a pannel of the jurors as heretofore.

Clk to deliver atto. statement of evidence.

Clk to issue venire facias

§ 5. Be it further enacted, That where the sheriff and coroner shall be both implicated in the criminal charge, or otherwise disqualified to act, or one on-

Where the shff. or coroner implicated court to ap-

point proper person.

ly being implicated, the other shall be related to him, it shall be the duty of the circuit court before whom the accused is to be tried to appoint some impartial person to summon a venire, to whom the writ of venire facias shall be accordingly directed, and who shall be governed by the same laws, rules and regulations, as in such cases apply to the sheriff or coroner.

Proviso.

Provided, however, that the trial shall not, be postponed beyond the term at which such order is made, in consequence of such appointment by the court.

Form of recognizance.

§ 6. Be it further enacted, That the justices in taking bail of the accused shall in substance pursue the following form, viz. " County, to wit :—Be it remembered, that A B, C D, and E F—this day personally appeared before us and justices of the peace for said county, and severally acknowledged themselves indebted to the commonwealth of Kentucky, in the sum of dollars, that is to say, the said A B. in the sum of dollars, and the said C D. and E F. in the sum of dollars each, to be levied of their respective lands and tenements, goods and chattels. But to be void on the said A B's personally appearing in the circuit court for the county aforesaid, on the first day of their next term, and surrender himself in custody, to answer to the commonwealth for a felony (treason or murder, as the case may be) with which the said A B, stands charged before us: Acknowledged before us this day of ." Provided, however, that nothing in this act contained, shall be so construed as to render void any recognizance, which would be valid in law if this section had not passed.

Proviso.

trial of slaves where cognible.

§ 7. And be it further enacted, That trials of a kind heretofore cognizable in courts of oyer and terminer for the trials of slaves, shall be cognizable in the county courts at their usual and respective county court terms, and shall be regulated by the laws heretofore applicable to the said courts of oyer and terminer so far as they shall apply.

no advantage to be taken of irregulari-

§ 8. And be it further enacted, That any person prosecuted for felony, shall not be permitted to take advantage of any error or irregularity therein, before

the indictment, unless the same is of substance, nor in that case, unless the party so prosecuted, shall appear in person in the circuit court having cognizance of the offence.

ty before indictment. Exception

§ 9. All acts contravening the provisions of this act, shall be and the same are hereby repealed.

This act shall be in force from and after the first day of May next.

CHAP. LXXIX.

AN ACT
For the relief of Joseph Hart.

Approved, February 11, 1809.

Whereas it is represented to the present general assembly that Miles Hart entered a large quantity of land for Abraham Buford in the year 1782, for which he was to receive from the said Buford 3,000 acres of the following entries to wit: "Abraham Buford enters 1000 acres part of a treasury warrant number 7857, on the waters of Head Mountain, beginning at a white oak marked I H thence running near west down the waters for quantity. December 17th, 1782. Also 1000 acres on part of the above warrant on a creek called Cany, a branch of Rough creek beginning about a mile and a half below a clay lick at a sugar tree marked I M at the mouth of a branch running down the creek on both sides for quantity. December 17th, 1782. Also 1000 acres on Cany creek, begining about four miles from the mouth at a small fork and sugar tree marked I H and runing up both sides for quantity. December 17th, 1782. As a compensation, and that before he received assignments on said 3000 acres entries, he was killed by the Indians, and Joseph Hart his infant son and the only one except those murdered by the Indians, and the said Joseph Hart was at the same time taken prisoner by the said Indians and remained with them for a number of years, on his return was totally ignorant

of his claim to said land, until informed by said Buford, at which time he assigned to said Joseph Hart the entries, and the register does not think himself authorised to receive the platts and certificates into the land office,

§ 1 Be it enacted by the general assembly, that the register be and he is hereby authorised and required to receive the said platts and certificates into his office, and issue patents thereon in the name and for the benefit of the said Joseph Hart, any law to the contrary notwithstanding. This act shall not be so construed as to effect any prior or better claim of any other person or persons whatsoever, to the same land but that the said Hart may enjoy the benefit of his claim or claims to said land or lands, to all intents and purposes, as if the same had been surveyed and returned to the land office within the time prescribed by law.

This act shall be in force from and after its passage.

CHAP. LXXX.

AN ACT

To coerce the payment of arrearages from the several delinquent collectors of public dues.

Approved February 11, 1809.

Suits against public debtors, &c where they may be brought

Be it enacted by the general assembly, that any suit at common law or in chancery, brought against a public debtor or his security or securities, his, her or their representatives or any other claiming under them, for the purpose of seting aside a conveyance of property, for discovery or otherwise, for the purpose of enabling the commonwealth to obtain satisfaction of a judgment obtained against a public debtor, his security or securities or their representatives, or either of them, may be brought in the general court or in the circuit court of the county in which any land which may be the subject of controversy may be, or in which the defendant or defendants or either of

them may live or be found; it shall be lawful for the auditor for the time being, and it is hereby made his duty to cause such suits to be brought whenever he shall be of opinion the commonwealth will be benefited thereby. And for the purpose of prosecuting such suit or suits with effect he is hereby authorised and empowered to employ one or more attorney or attornies to attend to and prosecute such suit or suits, and one or more agent or agents to transact all or any business relating thereto out of court, and to agree by a written contract with such attorney or attornies, agent or agents for a certain compensation to be paid out of the public treasury when the business which he or they have undertaken be compleated; or for a sum to be paid in case of success, or for a per cent on the money actually collected by virtue of such suit or suits: Provided however, such conditional compensation so agreed to be paid to the attorney or attornies and agent or agents in one cause shall not exceed the sum of twenty per cent on the first three hundred dollars, and ten per cent on the residue of the money actually collected by virtue of such suit: Provided also, that nothing in this act shall authorise the attorney general to receive any other compensation for any suit he may prosecute on behalf of the commonwealth, than is now allowed by law. Nothing in this act contained shall authorise any agent or attorney employed by the auditor to receive the money collected on behalf of the commonwealth but the same shall be paid into the treasury by the officer who may collect it as heretofore directed by law.—When any agent or attorney employed by the auditor in pursuance of this act hath performed the services stipulated by him to be performed, the auditor shall issue his warrant on the treasury for the sum such agent or attorney shall be entitled to, which shall be paid by the treasurer.

Auditor's duty

May employ atto's and agents

their compensation

Money to be paid into the treasury

Warrant to issue in favor of attorney or agent

This act shall be in force from its passage.

CHAP. LXXXI.

AN ACT

For the Benefit of certain Militia men of the 55th Regiment.

Approved, February 11, 1809.

Whereas it is represented to the general assembly, that the Colonel Commandant of the 55th regiment of Kentucky militia, pursuant to the powers vested in him by law, ordered out a portion of the militia of his regiment to guard the frontiers of the county of Livingston, against the invasion and depredations of the Indians in the year 1808; and it being deemed reasonable, that those performing the services, should be compensated therefor: Therefore,

§ 1. Be it enacted by the general assembly, that the auditor of public accounts be, and he is hereby authorized and directed, to issue warrants on the treasury in favour of the persons hereafter named, for the sums severally allowed them by this act—to wit, to captain David James, for eleven days service, at the rate of forty dollars per month.

And Alexander Anderson, Thomas Lacy, Benjamin Fergurson, William Duncan, Thomas Duncan, John M'Grew and James Smith, for twenty-nine days service; and Benjamin Holcomb for twenty-one days service at the rate of six dollars per month each.

To captain Samuel Burton, for twenty-nine days service at the rate of forty dollars per month, and thirty-five privates, for twenty-nine days service, at the rate of six dollars per month.

§ 2. Be it further enacted, that each of the said thirty-five privates of captain Burton's company, shall produce to the auditor an affidavit, taken before a justice of the peace, that he performed the services aforesaid, together with a certificate from the Cap-

CHAP. LXXXV.

AN ACT

Providing for the recovery of monies fraudulently drawn from the treasury.

Approved, February 11, 1809.

Whereas it is represented to the present general assembly, that numerous base frauds have been practized on the public treasury by John Kercheval, James S. Megowan and others, who have drawn large sums of money therefrom, under colour of an act of assembly passed in the year 1800, entitled "an act for the relief of sundry citizens of Mason county and others," and an act entitled "an act to amend an act for the relief of the citizens of Mason and others" passed in 1801: For the recovery of which;

§ 1. Be it enacted by the general assembly, that it shall be the duty of the commonwealth's attornies in the circuit courts of Mason and Montgomery, to institute in their respective circuits, in the name of the commonwealth, any action or actions at law or in equity, at their election, against the said James S. Megowan and John Kercheval separately, and prosecute the same to a judgment, agreeably to the rules prescribed by law in other cases; and upon judgment or decree rendered against the defendant, it shall be their duty to direct executions to issue; and the sheriffs of said counties and circuits shall proceed to collect the money as in other cases, and under the same penalties.

Suits to be instituted against John Kercheval & James S. M'Gowen.

§ 2. Be it further enacted that the said attorney for the circuit of Mason may, if he elects to bring a suit at law, direct the said John Kercheval to be held to appearance bail in the sum of three thousand dollars; and the said attorney for the circuit of Montgomery, if he elects to bring an action at law, may also direct the said James S. Megowan to be held to appearance bail in the sum of twelve hundred dollars, and the sheriffs shall proceed therein, as in other cases wherein bail is required.

Duty of com. attorney in Mason.

and Montgomery.

Clerk's duties, and sheriffs

§ 3. Be it further enacted, that it shall be the duty of the clerks of the circuit courts in the aforesaid counties to issue all original, mesne, or final process on the part of the commonwealth; and the sheriff of the several counties in this state, shall execute the same without any fee or other compensation, unless the money shall be collected from the defendant in the suit, in which case they shall collect and receive the usual fees. And the said attornies shall as a compensation for the services required of them by this act, receive twenty-five per cent upon the several sums recovered and collected: and so soon as the executions which may be issued shall be returned satisfied, the clerks of the aforesaid courts shall certify the same to the Auditor of public accounts, and the sheriffs who shall have collected the money, shall under the penalty of double the amount collected, within ninety days after the return aforesaid, settle with the auditor, and pay into the treasury all sums by them collected, except the aforesaid twenty-five per cent, which they shall reserve and pay to said attornies, and for which the auditor shall give him or them credit.

Atto's compensation

Penalty agst sheriff incase of non-payment of money collected

lien of the com.

§ 4. Be it further enacted, that from and after the passage of this act, the commonwealth shall have a lien upon the goods and estate of the said John Kercheval & James S. Megowan, for all sums which may be due from them to the state; and all transfers or conveyances made by them of personal or real estate, shall be held, deemed, and taken as fraudulent and utterly null and void.

§ 5. Be it further enacted, that it shall be the duty of the clerks of the aforesaid circuits to issue original process without claiming any tax therefor; and in case the said John Kercheval or James S. Megowan shall have removed to any other county within this state, it shall be the duty of said attornies to issue an alias, to the county to which he, or they may have removed, or proceed by attachment against their estate, at his election, in which case the

same proceedings shall be pursued as is by law prescribed in other cases.

This act shall be in force from and after the passage thereof.

CHAP. LXXXVI.

AN ACT

To amend the act entitled "an act for the further regulations of the Penitentiary House."

Approved, February 11, 1809.

Agent may contract with a supercargo

§ 1. Be it enacted by the general assembly, that the agent of the penitentiary house be, and he is hereby authorized and empowered, to contract with any supercargo or shipper, to take on freight, any and all of the articles manufactured by the convicts from stone materials, to any place or places on the Ohio or Mississippi for market, there to be sold for the best prices that can be had for them.

the articles

agents duty previous thereto

§ 2. Be it further enacted, that previous to such transportation, the agent shall make regular and faithful entries of each article at its real value in the penitentiary in his book, and also the costs of freightage, so that the whole expence shall appear; and the agent in adjusting the accounts with the penitentiary, shall charge the commonwealth only with the value and costs aforesaid.

To take bond and security

§ 3. Be it further enacted, that the agent aforesaid, shall take bond and sufficient security from the supercargo so employed, in a penalty of twice the value of the cargo under his care, conditioned for the faithful discharge of his duty in taking care of the cargo, selling the same, receiving and paying over to him the money arising therefrom, within six months thereafter, retaining the costs of freightage only to himself.

Condition

To pay the proceeds into the treasury

§ 4. And be it further enacted, that it shall be the duty of the agent, to pay the nett proceeds arising from cargo into the public treasury, first deli-

vering to the auditor of public accounts, a certified statement of the amount.

No money to be drawn therefrom for the foregoing purposes

§ 5. And be it further enacted, that no money shall be drawn from the public treasury, for the purposes contained in this act.

agents duty in his annual report

§ 6. And be it further enacted, that the agent of the penitentiary, shall in his annual report to the general assembly, state the amount annually, that the keeper receives on the ten per cent. allowed him on all work done in the penitentiary by the convicts.

Supercargo may appoint a person on commission

§ 7. Be it further enacted, that if the supercargo so employed, shall not be able to make sale of all the articles within a reasonable time, and may not wish to be detained, he may put such articles of the cargo as remains unsold into the hands of a proper person to sell on such commission as he shall think just, and shall take from such person a receipt, shewing the quantity and species of such articles, and the estimated value of each article, with a promise to account for and pay to the agent of the penitentiary, or to his order, the amount of sales of such articles (after deducting his commission) as soon as they may be sold, and he shall deliver such receipt to the agent of the penitentiary.

his duty

This act to be in force from its passage.

CHAP. LXXXVII.

AN ACT

Imposing fines in certain cases.

Approved February 11th, 1809.

§ 1. Be it enacted by the general assembly, that whosoever shall by offering money, by persuasion or otherwise, prevail on, or shall accept any free person under the age of twenty-one years, or shall prevail on, or accept any servant or slave to be the rider in a race, if the minor servant or slave so prevailed on or accepted, shall actually commence

tain to the same effect, before the auditor shall issue his warrant in his favour.

This act shall be in force from its passage.

CHAP. LXXXII.

AN ACT

To prevent the fraudulent appropriation of Lands under colour of treasury warrants.

Approved, February 11, 1809.

§ 1. Be it enacted by the general assembly, that it shall not be lawful for the register of the land office, to receive or register or issue a patent on any plat and certificate of survey, purporting to be made on a Virginia land office treasury warrant or warrants, or by virtue of any entry made with a surveyor of any county within our limits, while it was part of the state of Virginia, unless the principal surveyor, certifying such plat and certificate of survey, shall have also endorsed and certified thereon, that the same was made on an entry for land, lying within the bounds of his county, (or at least the greater part thereof,) nor shall it be lawful for the Register to issue a patent on any plat and certificate of survey, of the description aforesaid already registered, until a certificate of the principal surveyor, in substance as aforesaid, shall be obtained and filed with the register.

Register not to issue patents on Virginia land office treasury warrants with out a certificate from the surveyor.

its form.

§ 2. And be it further enacted, that a plat and certificate of survey purporting to be on a Virginia land office treasury, warrant or warrants, within the counties of Green Lincoln, Pulaski, or Knox, (or any other county through which passeth the line which divideth the military reserved lands from the land subject to treasury warrant entries, or in any county in which any land commonly called the military reserved land may

Nor to issue patents on military reserved lands nor for lands in the counties where they lie without a certificate from the surveyor.

lie) shall be received or registered or a patent issued thereon, unless the principal surveyor certifying the survey shall also have endorsed and certified thereon that the land included in the survey, or any part thereof is not within the bounds set apart by the state of Virginia for officers and soldiers (commonly called the military reserved lands ;) nor shall it be lawful for the register to issue a patent on any platt and certificate of survey already registered of the description (in this section) aforesaid within the counties aforesaid, until a certificate of the principal surveyor in substance as (in this section) aforesaid, shall be obtained and filed with the register.

Its form.

Nor for such lands already registered without such certificate.

§ 3. And be it further enacted, that no plat and certificate of survey purporting to be on a Virginia land office treasury warrant, within the counties of Knox or Pulaski (or any other county through which passeth the boundary line of the lands acquired by the treaty of Tellico) shall be received or registered or a patent issued thereon, unless the principal surveyor certifying the same, shall also have endorsed and certified thereon, that the land included in such survey or any part thereof is not within the bounds of the land acquired by the treaty of Tellico; nor shall it be lawful for the register to issue a patent on any plat and certificate of survey already registered of the description in this section aforesaid, within the counties aforesaid, until a certificate of the principal surveyor in substance as (in this section) aforesaid shall be obtained and filed with the register.

Patents not to issue for lands acquired by the treaty of Tellico without a certificate from the surveyor.

Its form.

Nor for such lands without such certificate.

§ 4. And be it further enacted, that if any patent shall hereafter be issued contrary to the true intent and meaning of this act, such patent shall be illegal and void, and the lands included therein shall be subject to appropriation as other vacant lands of the commonwealth, and all and every person or persons who shall procure the issuing of such illegal patent, or shall attempt to procure a patent to be issued contrary to the true intent and meaning of this act, shall be guilty of a misdemeanor, for which he, she or they may be indicted and fined and imprisoned at the discretion of a jury.

Patents declared void.

Penalty on persons procuring the same.

§ 5. And be it further enacted, that if any register of the land office shall violate the provisions of this act, or if any surveyor shall certify untruly and contrary to the true intent and meaning of this act, or shall make any survey of the illegal kind herein before mentioned, it shall be deemed a misdemeanor and malfeasance in office, and shall subject such offending officer to indictment and imprisonment at the discretion of a jury, not exceeding one year, and to a fine equal to twice the value of the land contained in such illegal survey or patent: Provided however, that nothing in this act contained shall be construed to make good and lawful any survey or patent which would not have been valid in law, if this act had not been passed. Penalty on the register and surveyor

This act shall be in force from its passage.

CHAP. LXXXIII.

AN ACT

To repeal the tenth section of the act entitled "an act to amend the several acts concerning the town of Frankfort."

Approved, February 11, 1809.

Be it enacted by the general assembly, that the tenth section of the act entitled an act to amend the several acts concerning the town of Frankfort, approved the 16th December, 1802, be, and is hereby repealed.

This act to be in force from its passage.

CHAP. LXXXIV.

AN ACT

To amend the act incorporating the Madison Hemp-Mill Company.

Approved, February 11th, 1809.

Whereas it is represented to the present general assembly that the prohibition from issuing notes, and paying any but cash for materials, contained in the tenth section of the act entitled "an act to incorporate the Madison hemp-mill company," has been injurious to the said corporation, therefore,

§ 1. Be it enacted by the general assembly, that the said prohibitory parts of the said tenth section, shall be, and the same hereby is repealed; and that the said company be permitted to borrow from any bank, individual, or company, such sum or sums as may be necessary to carry the objects of said company into complete effect; provided, that nothing in this act shall be extended or construed to give to the said hemp-mill company, the right or power to discount notes, or to make or issue any note or bond payable to bearer, or any note commonly called a post note, or any note or bond whatsoever, for the payment of money, which shall not bind the said company directly to pay the amount to some person by name, who may transfer the same by written assignment, as in other cases, between individual and individual.

§ 2. And be it further enacted, that the said company shall not be prevented from purchasing and manufacturing wool, in addition to the articles enumerated in the before recited act.

This act shall commence and be in force from its passage.

riding the race, without the consent of the father, if living, and if dead, the mother or guardian of such minor, or of the master of such servant or slave first had in writing, shall be deemed guilty of a misdemeanor; and for every such misdemeanor shall forfeit and pay to such father, mother, guardian, or master, as the case may be, the sum of one hundred dollars, to be recovered in an action of debt in any circuit court, within whose jurisdiction the offence shall have been committed: and the minor or servant being a free person, so prevailed on or accepted, and riding as aforesaid, may be a competent witness for the plaintiff in such action, provided that the father, master, or guardian, as the case may be, may moreover bring any action of trespass on the case, to recover any damages which he or they may have sustained by such injury.

This act shall be in force from and after its passage.

CHAP. LXXXVIII.

AN ACT

To amend the penal laws of this commonwealth,

Approved, February 11, 1809.

§ 1. Be it enacted by the general assembly, that every person convicted of wilfully and fraudulently removing or defacing any corner tree to any survey in this commonwealth, or as accessary thereto before the fact, shall be deemed guilty of felony, and subject to confinement in the penitentiary, under the same rules and regulations as other convicts, for a period not less than four nor more than eight years. Removing or defacing corner trees. accessary. Penalty

§ 2. Be it further enacted, that every person convicted of horse stealing or accessary thereto before the fact, shall undergo a confinement in the penitentiary subject to the same rules and regulations as aforesaid, for a period not less than four years nor more than eight years. Horse stealing. Penalty.

Laws repealed.

§ 3. Be it further enacted, that so much of all laws coming within the purview of the second section of this act is hereby repealed.

Stabbing shooting or wounding.

§ 4. Be it further enacted, whenever any person may be charged of wilfully and maliciously stabbing, shooting or otherwise wounding any person, and death may not have ensued in consequence thereof, it shall be lawful for some justice of the peace for the commonwealth to issue his warrant to apprehend such person, and either commit him or her to the jail of the county where such offence may be committed or recognize the offender with sufficient bail to appear at the next circuit court for such county.

Form of procedure.

§ 5. Be it further enacted that the court upon the appearance of the offender, and in case the person stabbed, shot or wounded may not have died, shall recognize the offender with sufficient bail to appear at the next circuit court, and in default of such bail being given, commit such offender to the jail of the county; and upon the appearance of the offender at the next succeeding court after the term to which such offender may be recognized by the justice as aforesaid, and in case twelve months should not have elapsed from the time the offence was committed, the court shall again recognize such offender with sufficient bail to appear at the next succeeding court for said circuit, provided however it should appear to the satisfaction of the court to which such offender may be recognized at any time, that the person stabbed, shot or wounded as aforesaid has recovered, or that the wound is not mortal, such offender may be indicted and tried at any time for wilfully and maliciously stabbing, shooting or wounding as the case may be.

§ 6. Be it further enacted, that an indictment shall be preferred against such offender at the first circuit court succeeding twelve months from the time such offence was committed, and in case the person stabbed, shot or wounded as aforesaid should die within the term of twelve months aforesaid, an indictment shall be preferred against such offender for murder; but should death not have ensued

within the period aforesaid, an indictment shall be preferred for stabbing, shooting or wounding, and the offender shall be tried for such stabbing, shooting or wounding and not for murder, although death may afterwards ensue.

§ 7. Be it further enacted, that in case of the offender failing to appear agreeable to any recognizance taken under this act, such process shall issue subject to the same rules and regulations as are to be observed in other criminal cases.

Recognizances how taken in all criminal cases.

§ 8. Be it further enacted, that hereafter in all criminal cases, recognizances shall be taken to and in the name of the commonwealth of Kentucky, and all process which may issue upon such recognizance, shall pursue the same as taken, and conclude against the peace and dignity of the commonwealth of Kentucky, and judgment shall be rendered and execution issue thereon in the name of the commonwealth of Kentucky.

Criminals convicted under the laws of the U S may be imprisoned in the peni'ty

§ 9. Be it further enacted, that whenever judgment may be pronounced against any offender in this commonwealth under the laws of the United State, subjecting such offender to imprisonment or confinement in the penitentiary, that the keeper of the penitentiary shall and is hereby directed to receive and receipt for such offender, subject to the same rules and regulations as other convicts under the laws of this commonwealth.

Second offence how punished.

§ 10. Be it further enacted, that every person convicted a second time for an offence of the same grade of that which such offender may first have been convicted of, shall undergo a confinement in the penitentiary house for a period double the time for which such offender was first convicted.

Common law revived

§ 11. Be it further enacted, that the common law in relation to riots, routs, unlawful assemblies of the people, assaults, batteries, affrays and breaches of the peace shall be, and the same is hereby revived and declared to be in full force, and that any person or persons guilty of any of the aforesaid offences may be indicted and punished at common law as heretofore, any law to the contrary notwithstanding; pro-

vided that this act shall not be so construed as to subject any person or persons to be twice punished for the same offence.

This act to be in force from the first day of March next.

CHAP. LXXXIX.

AN ACT

To authorize the appointment of a Sergeant of the Court of Appeals, and allowing appeals in certain cases of Caveat.

Approved, February 11, 1809.

§ 1 Be it enacted by the general assembly, that on all claims to land accruing under any act or acts of assembly, which have been passed by the commonwealth of Kentucky, authorizing the appropriation of any vacant land, caveats may be filed and prosecuted in the same manner, and under the same rules and regulations, as are prescribed in an act entitled "an act to reduce into one the several acts for preventing vexatious suits, and regulating proceedings in civil cases" except that the caveat shall be prosecuted in the circuit court of the county where the land lies, and that from any judgment rendered by any circuit court on any caveat filed and prosecuted under this act, either party may appeal to the court of Appeals on giving bond with security, and otherwise proceedings as in other cases of appeal.

Caveats may issue in certaine ases

Appeals thereon may be had

Nothing in this act contained shall be construed in any wise to alter or change the law respecting caveats prosecuted under rights derived from the laws of Virginia, but the same shall remain as if this act had never passed, nor shall any thing herein contained be construed as giving a right to sue out a writ of error on any judgement on a caveat, in which an appeal is by this act allowed: And it is hereby declared that every such judgment shall be final unless an appeal is prayed during the term of that court in which it shall be pronounced.

§ 2. And be it further enacted, that so much of every act as requires or authorizes the sheriff of Franklin to attend the court of appeals, shall be and the same is hereby repealed.

§ 3. And be it further enacted by the general assembly, that the office of sergeant of the court of appeals shall be, and is hereby established, to which office some fit person shall be appointed and commissioned as the constitution directs, and shall hold his office during good behaviour; the person thus appointed shall take the oath prescribed by the constitution, and shall enter into bond with security to be approved by the court of appeals in the office of the clerk of that court in the penalty of ten thousand dollars, conditioned for the faithful discharge of the duties of his office; such bond shall be payable to the governor and his successors in office, and for any breach thereof or any defalcation in office the same proceedings may be had as are authorized by the laws now in force on the bonds given by sheriffs for the general discharge of the duties of their office.

Office of sergeant of the court of appeals erected

Oath of the officer

To give bond

Condition

Legal effect and operation thereof

§ 4. And be it further enacted, that it shall be the duty of the said sergeant to attend the court of appeals, and perform the same duties as are by law required of the sheriff of Franklin county, and for so doing the said court may make him a reasonable allowance, which shall in no case exceed two dollars per day.

His duty

allowance.

And whereas the difficulty of conveying the process of the court of appeals to the sheriffs of remote counties in this commonwealth, is in many instances great, and much delay, injustice and vexation are occasioned thereby—for remedy thereof;

§ 5. Be it enacted, that it shall be lawful for the clerk of the court of appeals at the request of any party to direct any process of that court to the sergeant whose duty it shall be to execute the same, and for so doing he shall receive the same fee, and for neglecting it, subject to the same penalty which the sheriff is entitled by law to receive for such service, and subject to for such neglect, and shall moreover receive the sum of three cents for every mile which

May execute the process of the court

His fees

he shall necessarily travel in executing such process; provided however, that if more than one defendant shall be included in such process, the sergeant shall receive milage only for that one whose place of residence is most distant from the capitol—The milage in all cases to be computed from the capitol to the place of residence of the defendant, unless he shall have been found, and the process executed on him, in some place less remote, and in that case from the capitol to such place.

Who liable therefor.

§ 6. Be it further enacted, that in all cases where any process shall have been directed to, and executed by the sergeant, the party requiring it to be so directed and executed, shall be liable to pay him therefor, in the same manner as sheriffs fees are now payable and collectable. But it shall be in the discretion of the court of appeals whether they will permit the milage to be taxed in the bill of costs or not. And process which shall not on special request be directed to the sergeant, shall be directed and executed as heretofore, and as if this act had never passed.

Court to direct the taxing certain costs.

Nothing in this act contained shall be construed to authorize a marshal to execute any writ of execution for costs.

Deputies may be appointed.

The sergeant may appoint as many deputies as he may think proper, such deputies being approved of by the court of appeals, and he being responsible for their conduct.

This act shall be in force from its passage.

CHAP. XC.

AN ACT

Authorising the several sheriffs in this commonwealth to make certain conveyances.

Approved February 11, 1809.

Whereas it appears to the general assembly, that the several sheriffs of this commonwealth who have

sold lands under the revenue laws, have from deaths resignations, &c. failed in many instances to make conveyances to those who became purchasers of the lands as aforesaid; For remedy whereof,

§ 1. Be it enacted by the general assembly, that the several sheriffs within this commonwealth, who now are, or hereafter may come into office, shall be and they are hereby authorised and required to make conveyances to the purchaser or purchasers of lands sold as aforesaid, or lands sold under any execution, on their producing the certificate, or the receipt of the former sheriff of the actual purchase and the payment of the full amount of money arising from said sale, as also a correct plat of said land, made out by some surveyor lawfully authorised to make the same; which conveyances when made shall be as good and valid in law to all intents and purposes as they would have been if made by the sheriff who made the sale.

This act to commence from the passage thereof.

CHAP. XCI.

AN ACT

For the appropriation of Money.

Approved, February 11th, 1809.

§ 1. Be it enacted by the general assembly, that the following allowances shall be made to the several persons hereafter mentioned for their services during the present session of the general assembly, to wit:

To the speaker of the senate and house of representatives, four dollars per day, each. Speaker

To the clerks of the senate and house of representatives, sixty dollars per week, each. Clerks

To the clerk of the committees of the senate, thirteen dollars and fifty cents per week.

To the clerk of committees of privileges and elections, propositions and grievances for the house of

representatives, thirteen and a half dollars per week.

To the clerk of the committees of claims, religion and courts of justice, thirteen and an half dollars per week.

Sergeant at arms

To the sergeant at arms of the senate, sixteen dollars per week.

To the sergeant at arms of the house of representatives, sixteen dollars per week.

Doorkeepers

To the door-keeper of the senate, sixteen dollars per week.

To the door-keeper of the house of representatives for his services, sixteen dollars per week.

M'Curdy

To Allen F. McCurdy for sundry repairs made on the capitol under the direction, and superintendance of the commissioners appointed for that purpose by the law of last session, four hundred and three dollars.

Niess.

To David Niess jun. for binding 1200 copies of the acts of the present session of the general assembly, two hundred and forty dollars, upon his producing to the auditor the receipt of the public printer for the number of copies so bound.

P. Printers.

To the public printers, in advance, for executing the public work, five hundred dollars.

Andrews

To Alexander Andrews, for sundry repairs done on the capitol under the direction and superintendance of the commissioners appointed for that purpose by the law of last session, forty-six dollars fifty-nine cents seven mills.

C. Scott

To Charles Scott esq. thirty-six dollars and forty-one cents in full of money paid by him for materials necessary in the repair of the government house and articles of furniture therefor.

Clerks

To the clerks of the senate and house of representatives for stationary furnished during the present session, twenty dollars, each.

R. Taylor

To Richard Taylor for keeping captain Underwood and suit, and furnishing them with provision &c. during their stay in the town of Frankfort, sixty-one dollars and twenty-five cents.

Lowry

To William Lowry for repairs done to the seats in the representative chamber, four dollars.

To the governor for money expended by him in furnishing sundry necessaries for capt. Underwood and suit, fifty dollars. Governor

To James Gale for one hundred and twenty-seven loads of wood furnished the present session of the general assembly for fuel, one hundred and twenty-seven dollars. Gale

To David Niess jun. for sundry articles of stationary furnished and book binding done for the secretary's office, seventeen dollars sixty two and one half cents. Niess

To Roger Divine for cutting fuel, furnishing water kettles, candle-sticks and candles for the house of representatives during the present session, forty-four dollars. Divine

To Richard M. Gano for summoning witnesses in the case of M'Gowen, from the counties of Montgomery, Clark, Bourbon, Mason, Fleming, Shelby and Jefferson, three trips, for summoning witnesses from the counties of Montgomery, Mason & Franklin in the case of Hodges, summoning magistrate and witnesses from Clark, magistrates and witnesses from Barren, magistrates and witnesses from Fayette, magistrates and witnesses from Franklin and carrying writs of election, two hundred and eighty dollars and seventy-five cents for the whole service and expence. Gano

To William J. Phillips, for pulley, &c. to the state-house door, one dollar. Phillips

To Joseph Huston for provisions furnished to capt. Wm. Hardin's company, by order of the governor of this state for apprehending certain fugitives from the Indiana territory, ninety dollars ten cents. Huston

§ 2. And be it enacted, that the sum of three hundred dollars be, and is appropriated to the repairs done and to be done to the house, and its appurtenances occupied by the governor in the town of Frankfort, and for the chairs and tables furnished for the use of the said house, under the inspection and direction of the governor aforesaid. And that the auditor of public accounts be, and is authorized and required to issue his warrants on the treasury For repairing the government house.

Auditor to issue warrants to workmen

in favor of the workmen respectively, who shall have done the work or furnished the materials, upon such workmens producing his bill to the said auditor, countersigned by the governor.

Certain militia

That the following sums be allowed to the subjoined militia men of the 59th regiment, Elijah Board, Dudley Hains, Samuel Jorden, Thos. Stith, John Taboard, Amasa Taboard, Bartlett Basham, Thomas Dowell, Micajah Dowell, Henry Miller, sen. Aquilla Hull, Henry Miller, jun. Saml. Jolly, Jacob Rice, Benj. Smith, Wm. Crawford, Martin Wale, Frederick Frais, Isaac Smith and Jacob Wise, each, at the rate of five dollars per month for seven days service, under the order of the governor of this commonwealth, to apprehend certain fugitives from justice from the Indiana territory, demanded by the governor of said territory.

Also, to Charles Croom, James Duncan, jun. Benedict Lewis, Robert Allen, Moses Ragan, David Hoskins, William Wood, Ely Riley, John Cunningham, Wm. Walker, Abraham Parish, David Concklin, James Cunningham, Michael Blane, Richard Herall, Thomas Mills, Zepheniah Mills, John McCollum, Levi Hosly and John Stone, each, at the rate of five dollars permonth for five days in the said above recited service.

Also, Wm. P. Pool, Wm. Owen, Robert Owen, Grant Owen, Abraham M'Clelland, Nathaniel Hamilton, Stephen P. Pool, Robert P. Pool, Andrew Hamilton, Zachariah Avery, sen. Raney Mahan, William Mattenly, Thornton Cummings, Thomas Deane, Zachariah Avery, jun. Isaac Dehaver, James Hamilton, Wm. J. Smith, David Hamilton & Larkin Thackston, each, at the rate of five dollars per month, for four days in the said above recited service.

Also, to Richard Board, sergeant for seven days, Isaac Green, sergeant for five days, John Dant and James Wheatly each, for four days at the rate of eight dollars per month for each man's service.

Edwards

Also, Thomas Edwards ensign, at the rate of twenty dollars per month for five days service.

Also, to Wm. Crume, lieutenant, for five days service, at the rate of thirty dollars per month. Crume

Also, to Wm. Hardin, captain, at the rate of forty dollars per month for seven days service. Hardin

To the auditor of public accounts, four hundred dollars for clerks hire in full, for the year 1809. Auditor

To David Johnson, for pulley to the door of the senate chamber, one dollar---for cutting wood, furnishing water, candles, &c. forty-four dollars. Johnson

To the sergeant at arms for the senate, for carrying writs of election to Campbell, Boone, and Pendleton and Gallatin counties, fifty-seven dollars---for a stove in the senate chamber, forty dollars---for serving a summons on William C. Rogers and witnesses in the counties of Jefferson, Lincoln, Washington, Christian and Livingston, one hundred and fifty dollars. Sergeant at arms of the senate

To George Greer for a pair of andirons for the senate chamber, three dollars. Greer

To Tunstall Cox, five dollars. Cox.

To James Ward, twenty-two dollars---To Joseph Williams, twenty-one dollars and seventy-five cents. To Edward Suttles, twenty-one dollars and sixty-two cents. To John G. Heathe, eighteen dollars and eighty-seven cents---To John Taylor, fifteen dollars fifty cents---To Thomas Young, twelve dollars and seventy-five cents---To Peter Fitzgerald, twelve dollars and seventy-five cents---To Reuben Berry, three dollars and thirty-three cents---Witnesses summoned to attend at the last session of the general assembly to give evidence to a committee appointed to inquire into charges against John Kercheval then a member of the house of representatives, (for which services they have received no compensation.) Certain witnesses

To James Jones, nine dollars and forty-four cents.

To Jeremiah Davis, six dollars and ninety-four cents.

To Joseph Simpson, six dollars and forty-four cents.

To Harrison Graves, seven dollars and seventy-seven cents.

To Hugh Kelsoe, seven dollars and seventy-seven cents, as a compensation for their attendance as witnesses in behalf of the commonwealth as also in behalf of William Hodges a member from Montgomery county in a certain prosecution exhibited against him by James Milroy, the present session of the general assembly.

This act shall be in force from its passage.

RESOLUTIONS.

IN THE HOUSE OF REPRESENTATIVES, December 16, 1808.

RESOLVED, By the Senate and House of Representatives, That as a testimony of respect to Gen. Thomas Sandford, deceased, and late a member of the senate, the members of the general assembly, and their officers, will, and that the officers of the government generally, be requested to wear black crape on their left arm, as a badge of mourning, for the space of thirty days.

Approved, December 17, 1808.

In the House of Representatives—December 16th, 1808.

Resolved, That the administration of the general government, since the 4th of March, 1801, hath been wise, dignified and patriotic, and merits the approbation of the country.

Resolved, That the embargo was a measure highly judicious, and was an honorable expedient to avoid war, whilst its direct tendency, besides annoying those who had rendered resort to it necessary, was to preserve our seamen and property, exposed to the piratical depredations of foreign vessels.

Resolved, That the General Assembly of Kentucky, would view with the utmost horror, a proposition in any shape, to submit to the tributary exactions of Great Britain, as attempted to be enforced by her orders of council, or to acquiesce in the violation of neutral rights, as menaced by the French decrees ; in resisting which aggressions they pledge themselves to the general government for their most energetic support.

RESOLVED, that whether war, a total non-intercourse, or a more rigid execution of the embargo system, be determined on, the general assembly, however they may regret, the privations, consequent on the occasion, will cordially approve and co-operate in enforcing the measure, for they are sensible that in the present crisis of the nation, the alternatives are—a surrender of liberty and independence, or a bold and manly resistance.

Resolved, That Thomas Jefferson, is entitled to the thanks of his country, for the ability, uprightness and intelligence which he has displayed in the management both of our foreign relations and domestic concerns.

Resolved that a copy of the foregoing resolutions be transmitted to the president of the United States, and to each of our senators and representatives in Congress.

Pre

Approved, December 23d, 1808.

In the House of Representatives, December 16th, 1808.

Resolved by the Senate and house of Representatives, that a joint committee of two from the senate, and four from the house of representatives, be appointed for the purpose of re-examining and adjusting the accounts of David Logan. late treasurer of this commonwealth, and also those of his predecessor, John Logan, so far back, as the 3d day of November, 1806.

Approved, December 23d, 1808.

In the House of Representatives, December 21, 1808.

Resolved, That the president of the Bank of Kentucky, be, and he is hereby requested to cause to be laid before the legislature, statements of the amount of the capitol stock of said corporation, and of the debts due to the same, of the monies deposited therein, of the notes in circulation, and of the cash in hand, conformably to a provision in the sixteenth article of the constitution of said bank.

Approved, December 27, 1808.

Resolved, That a joint committee of four from the House of Representatives, and two from the Senate, be appointed to examine the office of the secretary of state, pursuant to his request, and that the said committee report thereupon to their respective houses.

Approved, Dec. 27, 1808.

In General Assembly,—December 27th, 1808.

Resolved, That a joint committee of four members from the senate and eight members from the house of representatives, be appointed to review from the President of the State Bank, the report which by a resolution already passed both houses, hath been required of him, and also to inspect the books of the said bank, agreeably to the provisions of the act of assembly of 1806 establishing said bank, and make report to each branch of the legislature.

Approved, December 30th 1808.

In the House of Representatives, December 22, 1808.

Resolved, That a joint committee of two from the senate, and four from the house of representatives, be appointed to examine the

books, aoccunts and situation of the jail and penetentiary house, and report accordingly.

Approved, January 3d, 1809.

Resolved, That the general assembly will proceed by joint vote, to elect a president and six directors of the state Bank, on the eleventh day of January, 1809 ; and that the houses will interchange nominations of fit persons to fill those offices, on the day preceding said election.

Approved, January 1809.

In the house of representatives, December 22d, 1808.

Resolved, By the Senate and house of representatives, That a joint committee of three, from the senate. and six from the house of representatives, be appointed to confer with printers, and receive proposals for executing the public printing ; and that they make report to each branch of the general assembly.

Resolved, further, That the senate and house of representatives will by a joint vote, proceed on the 18th day of January, 1809, to elect a public printer and treasurer, for this commonwealth, for the ensuing year.

In the house of representatives, Jan. 17th, 1809.

Resolved, By the general assembly, that the resolution fixing the 18th inst. for the election of a treasurer and public printer, shall be, and the same is hereby rescinded ; and that the said elections will be held on Wednesday, the 25th inst.

Approved 25th January, 1809.

In General Assembly, January 3d, 1809.

Resolved that a joint committee of five from the House of Representitives, and three from the Senate to be appointed to enquire if any thing, and what has been done pursuant to an act passed at the last session entitled "an act to procure reports of the decisions of the court of appeals" and make report thereof to each House, and that they have the power of sending for persons and papers.

Approved, January 16, 1809.

In General Assembly—January 17th, 1809.

Resolved as the opinion of the General Assembly of the commonwealth of Kentucky, That a strong garrison at Michilimakinac, on

lake Huron, would be of great public utility—that besides other advantages it, would aid in the protection of the northern frontiers of the western country.

That a strong garrison at St. Louis, on the Mississippi river, would also be of great general utility, and in particular in protecting the N. Western frontier.

That a garrison on the Mississippi, near the mouth of the Ohio river, would be of great utility in checking improper intercourse with the southern Indians, in protecting the frontiers of Tennessee, and the lower part of Kentucky, from invasions; and moreover, would contribute to the protection of New-Orleans, by rendering the communications, between the settlements on the Ohio river, and its waters, and those of the Natchez and Orleans territories more easy and safe, and would also form a safe deposit for public stores, &c. from which at all times supplies could be speedily (with the stream of the Mississippi) conveyed to the lower country, while the difficulty of ascending would enfeeble all attempts of invasion from below, and the garrisons from St. Louis, Michilimackinac and others, with the difficulty to passing the country, would form a barrier above.

Resolved, That the governor of this commonwealth be requested to submit, with due deference, a copy of the foregoing resolution to the Executive of the United States, and transmit a copy to each of our representatives in Congress.

Approved, Jan. 18th, 1809.

In the house of representatives, December 23d, 1808.

Resolved, by the general assembly of Kentucky, that whilst they at all times feel a disposition to co-operate in the adoption of any salutary amendment to the Constitution of the United States; it would in their opinion, be inexpedient to adopt the amendment proposed by the State of Virginia, that the Senators in the Congress of the United States may be removed from office by the majority of the whole number of the members of the respective State legislatures, by which the said Senators have been or may be appointed.

Approved, January 16, 1809.

In General Assembly, January 28th, 1809.

Resolved, That it shall be the duty of the secretary of state, to number by Chapters, the acts of each session of the general assembly in the order in which they receive the approbation of the governor, and to file the said acts in the same order, and continue the chapters in progression for every term of four years, beginning with the present session.

Resolved, That it shall be the duty of the clerk of the senate, and of

the house of representatives, to procure from the Secretary's office, and to certify to the public printer, with the laws of each session the chapter marked on each act.

Resolved, that it shall be the duty of the public printer, to publish the acts of each session in the order and designated by the chapters above mentioned, and besides the table and indexes usually annexed to the acts of assembly, they shall be ranged as aforesaid, paged and chaptered progressively, for every term of four years, with a general index at the end of the 4th year; so as to form those of each governor's term into a volume, commencing with the present session.

Approved, Feb. 1, 1809.

In the house of representatives, January 24th, 1809.

Whereas it has been stated to this house by the letter of the late treasurer, David Logan, that he did deposit in the Bank of Kentucky, a sum of money belonging to this commonwealth—Therefore,

Resolved, by the senate and house of representatives, That the treaserer is authorised to receive from David Logan, late treasurer, any amount of money, that he believes to be in his hands, belonging to the commonwealth, distinguishing what, according to his best knowledge, is accruing of receipts from the clerk's and sheriffs and non-residents, from the amount of receipts of Green river settlers—from those general receipts and amount, a receipt shall be given to said David Logan, which shall be interchanged against the quietas of the auditor, and said quietus shall be a legal discharge for so much of the real balance, which shall be established against him by the report of the joint committee appointed by the legislature for that purpose.

Approved, February 1, 1809.

In the house of representativas, January 27th, 1809.

Whereas John Smith, one of the Assistant Judges for the Pulaski circuit, has absented himself on private business, for about twelve months past from this state, and for a considerable part of the year preceeding, and that he has altogether failed to perform the duties of his office, during the period to the great delay of business, and injury of individuals—Wherefore,

Resolved, That the Governor be, and he is hereby requested to remove from office the said John Smith.

Approved February 1st, 1809.

In General Assembly.

Whereas the belligerent powers of Europe have wantonly transgressed and violated the rights of neutrals, by their arbitrary and unjust Orders and decrees, as they relate to the United States; and as it is

believed, that in the present important crisis, the interest of the nation requires, that a preference should be given to those articles, the growth and manufacture of our own country, and that we abstain from the use of European commodities—

Resolved, By the senate and house of representatives, that it be recommended to the good people of this commonwealth, to use every exertion to promote domestic manufactures; and the members of the general assembly, in order to effect this object, and bring them into general use, will, on the 20th of June next, clothe themselves in productions of American manufacture, and will discourage the use of those of European Fabric, until our national rights are respected; and commerce freed from the restrictions now imposed on it.

Approved February 9th, 1809.

In the House of Representatives—February 9th, 1809.

Resolved, By the General Assembly, That Captain George R. C. Floyd, be permitted for the accommodation of his company, the use of the room lately occupied by the Public Printer, in the State-House for a period not exceeding ten days.

Approved, Feb. 10, 1809.

In the house of representatives, Feb. 10, 1809.

Resolved, By the General Assembly, That our senators in the congress of the United States be, and hereby are instructed, and our representatives requested to make use of the necessary means to procure an extinguishment of the Indian title, to that portion of the territory of this state, lying West of Tennessee river.

Approved, February 11, 1809.

In the house of representatives, February 11th, 1809.

Resolved by the general assembly, That David Logan late treasury be, and he is hereby required to account with the Auditor of Public accounts, agreeably to the report of the late committee of the two houses and pay the balance into the public treasury, forthwith.

Approved, Feb. 9th, 1809.

In House of Representitives February 2nd 1809:

Resolved by the General assembly, that the public printer be, and he is hereby directed to print twelve hundred copies of the acts passed at the present session of the general assembly, and lodge them at the Book bindery, of David Niess, jun. whose duty it shall be immediately to bind the said copies respectively, in substantial half binding with leather backs and corners, neatly lettered and rolled, for which he shall receive at the rate of 20 cents per copy; and shall immediately after having completed the same, return them to the public printer, who shall lodge the same in the Secretary's office to be distributed by the Secretary, among the persons entitled thereto; provided that no person shall be entitled to more than one copy.

In General Assembly.

To his Excellency Charles Scott, Governor of this Commonwealth.

Two-thirds of each house concurring therein, respectfully shew to your excellency, that Leonard K. Bradley, a justice of the peace, in and for the county of Fayette, is unfit for said office, and ought to be removed for the following causes, to wit :

1st That said Bradley did unlawfully in two instances, authorise a certain Hezekiah Harrison to issue warrants, give judgments, and sue out executions in the name and official character of said Bradley, against a certain Allen F M'Gurdy, which judgments aforesaid were in the name and for the benefit of said Harrison, ; and said executions were issued by said Harrison, in the absence of said Bradley, under the power given him as aforesaid

2nd—That said Bradley is much given to intoxication ; that owing to this cause, he has been unable sometimes when applied to, to attend to the duties of his office, and that in several instances he has been intoxicated whilst acting in his official capacity.

3d—That said Bradley did refuse to grant an attachment to a certain Mr. Laird, who applied therefor, against an absconding debtor, until said Laird consented to join in the attachment, a claim of said Bradleys for two dollars, and in that way said Bradleys debt was secured.

They therefore pray your Excellency, to remove the said Leonard, K. Bradley from his said office, of justice of the peace, for the county of Fayette.

Approved, Feb. 8, 1809.

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